

AMENDMENT NO. _____ Calendar No. _____

Purpose: To provide a complete substitute.

IN THE SENATE OF THE UNITED STATES—110th Cong., 1st Sess.

S. 4

To make the United States more secure by implementing unfinished recommendations of the 9/11 Commission to fight the war on terror more effectively, to improve homeland security, and for other purposes.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended
to be proposed by Mr. LIEBERMAN (for himself and
Ms. COLLINS)

Viz:

1 Strike all after the enacting clause and insert the fol-

2 lowing:

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Improving America’s

5 Security Act of 2007”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1 (1) DEPARTMENT.—The term “Department”
2 means the Department of Homeland Security.

3 (2) SECRETARY.—The term “Secretary” means
4 the Secretary of Homeland Security.

5 **SEC. 3. TABLE OF CONTENTS.**

6 The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Definitions.
Sec. 3. Table of contents.

**TITLE I—IMPROVING INTELLIGENCE AND INFORMATION SHAR-
ING WITHIN THE FEDERAL GOVERNMENT AND WITH STATE,
LOCAL, AND TRIBAL GOVERNMENTS**

Subtitle A—Homeland Security Information Sharing Enhancement

Sec. 111. Short title.
Sec. 112. Homeland Security Advisory System and information sharing.
Sec. 113. Information sharing.
Sec. 114. Intelligence training development for State and local government offi-
cials.
Sec. 115. Information sharing incentives.

Subtitle B—Homeland Security Information Sharing Partnerships

Sec. 121. Short title.
Sec. 122. State, Local, and Regional Fusion Center Initiative.
Sec. 123. Homeland Security Information Sharing Fellows Program.

Subtitle C—Interagency Threat Assessment and Coordination Group

Sec. 131. Interagency Threat Assessment and Coordination Group.

TITLE II—HOMELAND SECURITY GRANTS

Sec. 201. Short title.
Sec. 202. Homeland Security Grant Program.
Sec. 203. Technical and conforming amendments.

**TITLE III—COMMUNICATIONS OPERABILITY AND
INTEROPERABILITY**

Sec. 301. Dedicated funding to achieve emergency communications operability
and interoperable communications.
Sec. 302. Border Interoperability Demonstration Project.

TITLE IV—TERRORIST TRAVEL

Sec. 401. Security enhancements to the Visa Waiver Program.
Sec. 402. Strengthening the capabilities of the Human Smuggling and Traf-
ficking Center.

3

Sec. 403. Enhancements to the Terrorist Travel Program.

TITLE V—PRIVACY AND CIVIL LIBERTIES MATTERS

Sec. 501. Modification of authorities relating to Privacy and Civil Liberties Oversight Board.

Sec. 502. Privacy and civil liberties officers.

Sec. 503. Department Privacy Officer.

TITLE VI—ENHANCED DEFENSES AGAINST WEAPONS OF MASS DESTRUCTION

Sec. 601. National Biosurveillance Integration Center.

Sec. 602. Biosurveillance efforts.

Sec. 603. Interagency coordination to enhance defenses against nuclear and radiological weapons of mass destruction.

TITLE VII—PRIVATE SECTOR PREPAREDNESS

Sec. 701. Definitions.

Sec. 702. Responsibilities of the private sector office of the Department.

Sec. 703. Voluntary national preparedness standards compliance; accreditation and certification program for the private sector.

Sec. 704. Sense of Congress regarding voluntary national preparedness standards compliance.

Sec. 705. Sense of Congress regarding promoting an international standard for private sector preparedness.

Sec. 706. Report to Congress.

Sec. 707. Rule of construction.

TITLE VIII—TRANSPORTATION SECURITY PLANNING AND INFORMATION SHARING

Sec. 801. Transportation security strategic planning.

Sec. 802. Transportation security information sharing.

TITLE IX—INCIDENT COMMAND SYSTEM

Sec. 901. Preidentifying and evaluating multijurisdictional facilities to strengthen incident command; private sector preparedness.

Sec. 902. Credentialing and typing to strengthen incident command.

TITLE X—CRITICAL INFRASTRUCTURE PROTECTION

Sec. 1001. Critical infrastructure protection.

Sec. 1002. Risk assessment and report.

TITLE XI—CONGRESSIONAL OVERSIGHT OF INTELLIGENCE

Sec. 1101. Availability to public of certain intelligence funding information.

Sec. 1102. Response of intelligence community to requests from Congress.

Sec. 1103. Public Interest Declassification Board.

TITLE XII—INTERNATIONAL COOPERATION ON ANTITERRORISM TECHNOLOGIES

Sec. 1201. Promoting antiterrorism capabilities through international cooperation.

1 **TITLE I—IMPROVING INTEL-**
2 **LIGENCE AND INFORMATION**
3 **SHARING WITHIN THE FED-**
4 **ERAL GOVERNMENT AND**
5 **WITH STATE, LOCAL, AND**
6 **TRIBAL GOVERNMENTS**

7 **Subtitle A—Homeland Security**
8 **Information Sharing Enhancement**

9 **SEC. 111. SHORT TITLE.**

10 This subtitle may be cited as the “Homeland Security
11 Information Sharing Enhancement Act of 2007”.

12 **SEC. 112. HOMELAND SECURITY ADVISORY SYSTEM AND IN-**
13 **FORMATION SHARING.**

14 (a) **ADVISORY SYSTEM AND INFORMATION SHAR-**
15 **ING.—**

16 (1) **IN GENERAL.**—Subtitle A of title II of the
17 Homeland Security Act of 2002 (6 U.S.C. 121 et
18 seq.) is amended by adding at the end the following:

19 **“SEC. 203. HOMELAND SECURITY ADVISORY SYSTEM.**

20 **“(a) REQUIREMENT.**—The Secretary shall administer
21 the Homeland Security Advisory System in accordance
22 with this section to provide warnings regarding the risk
23 of terrorist attacks on the homeland to Federal, State,
24 local, and tribal government authorities and to the people
25 of the United States, as appropriate. The Secretary shall

1 exercise primary responsibility for providing such warn-
2 ings.

3 “(b) REQUIRED ELEMENTS.—In administering the
4 Homeland Security Advisory System, the Secretary
5 shall—

6 “(1) establish criteria for the issuance and rev-
7 ocation of such warnings;

8 “(2) develop a methodology, relying on the cri-
9 teria established under paragraph (1), for the
10 issuance and revocation of such warnings;

11 “(3) provide, in each such warning, specific in-
12 formation and advice regarding appropriate protec-
13 tive measures and countermeasures that may be
14 taken in response to that risk, at the maximum level
15 of detail practicable to enable individuals, govern-
16 ment entities, emergency response providers, and the
17 private sector to act appropriately; and

18 “(4) whenever possible, limit the scope of each
19 such warning to a specific region, locality, or eco-
20 nomic sector believed to be at risk.

21 **“SEC. 204. HOMELAND SECURITY INFORMATION SHARING.**

22 “(a) INFORMATION SHARING.—Consistent with sec-
23 tion 1016 of the Intelligence Reform and Terrorism Pre-
24 vention Act of 2004 (6 U.S.C. 485), the Secretary shall
25 integrate and standardize the information of the intel-

1 ligence components of the Department, except for any in-
2 ternal protocols of such intelligence components, to be ad-
3 ministered by the Chief Intelligence Officer.

4 “(b) INFORMATION SHARING AND KNOWLEDGE
5 MANAGEMENT OFFICERS.—For each intelligence compo-
6 nent of the Department, the Secretary shall designate an
7 information sharing and knowledge management officer
8 who shall report to the Chief Intelligence Officer regarding
9 coordinating the different systems used in the Department
10 to gather and disseminate homeland security information.

11 “(c) STATE, LOCAL, AND PRIVATE-SECTOR SOURCES
12 OF INFORMATION.—

13 “(1) ESTABLISHMENT OF BUSINESS PROC-
14 ESSES.—The Chief Intelligence Officer shall—

15 “(A) establish Department-wide procedures
16 for the review and analysis of information gath-
17 ered from sources in State, local, and tribal
18 government and the private sector;

19 “(B) as appropriate, integrate such infor-
20 mation into the information gathered by the
21 Department and other departments and agen-
22 cies of the Federal Government; and

23 “(C) make available such information, as
24 appropriate, within the Department and to

1 other departments and agencies of the Federal
2 Government.

3 “(2) FEEDBACK.—The Secretary shall develop
4 mechanisms to provide feedback regarding the anal-
5 ysis and utility of information provided by any entity
6 of State, local, or tribal government or the private
7 sector that gathers information and provides such
8 information to the Department.

9 “(d) TRAINING AND EVALUATION OF EMPLOYEES.—

10 “(1) TRAINING.—The Chief Intelligence Officer
11 shall provide to employees of the Department oppor-
12 tunities for training and education to develop an un-
13 derstanding of—

14 “(A) the definition of homeland security
15 information; and

16 “(B) how information available to such
17 employees as part of their duties—

18 “(i) might qualify as homeland secu-
19 rity information; and

20 “(ii) might be relevant to the intel-
21 ligence components of the Department.

22 “(2) EVALUATIONS.—The Chief Intelligence Of-
23 ficer shall—

24 “(A) on an ongoing basis, evaluate how
25 employees of the Office of Intelligence and

1 Analysis and the intelligence components of the
2 Department are utilizing homeland security in-
3 formation, sharing information within the De-
4 partment, as described in this subtitle, and par-
5 ticipating in the information sharing environ-
6 ment established under section 1016 of the In-
7 telligence Reform and Terrorism Prevention Act
8 of 2004 (6 U.S.C. 485); and

9 “(B) provide a report regarding any eval-
10 uation under subparagraph (A) to the appro-
11 priate component heads.

12 **“SEC. 205. COORDINATION WITH INFORMATION SHARING**
13 **ENVIRONMENT.**

14 “All activities to comply with sections 203 and 204
15 shall be—

16 “(1) implemented in coordination with the pro-
17 gram manager for the information sharing environ-
18 ment established under section 1016 of the Intel-
19 ligence Reform and Terrorism Prevention Act of
20 2004 (6 U.S.C. 485); and

21 “(2) consistent with and support the establish-
22 ment of that environment, and any policies, guide-
23 lines, procedures, instructions, or standards estab-
24 lished by the President or, as appropriate, the pro-

1 gram manager for the implementation and manage-
2 ment of that environment.”.

3 (2) TECHNICAL AND CONFORMING AMEND-
4 MENTS.—

5 (A) IN GENERAL.—Section 201(d) of the
6 Homeland Security Act of 2002 (6 U.S.C.
7 121(d)) is amended—

8 (i) by striking paragraph (7); and

9 (ii) by redesignating paragraphs (8)
10 through (19) as paragraphs (7) through
11 (18), respectively.

12 (B) TABLE OF CONTENTS.—The table of
13 contents in section 1(b) of the Homeland Secu-
14 rity Act of 2002 (6 U.S.C. 101 et seq.) is
15 amended by inserting after the item relating to
16 section 202 the following:

“Sec. 203. Homeland Security Advisory System.

“Sec. 204. Homeland Security Information Sharing.

“Sec. 205. Coordination with information sharing environment.”.

17 (b) INTELLIGENCE COMPONENT DEFINED.—

18 (1) IN GENERAL.—Section 2 of the Homeland
19 Security Act of 2002 (6 U.S.C. 101) is amended—

20 (A) by redesignating paragraphs (9)
21 through (16) as paragraphs (10) through (17),
22 respectively; and

23 (B) by inserting after paragraph (8) the
24 following:

1 “(9) The term ‘intelligence component of the
2 Department’ means any directorate, agency, or other
3 element or entity of the Department that gathers,
4 receives, analyzes, produces, or disseminates home-
5 land security information.”.

6 (2) TECHNICAL AND CONFORMING AMEND-
7 MENTS.—

8 (A) HOMELAND SECURITY ACT OF 2002.—
9 Section 501(11) of the Homeland Security Act
10 of 2002 (6 U.S.C. 311(11)) is amended by
11 striking “section 2(10)(B)” and inserting “sec-
12 tion 2(11)(B)”.

13 (B) OTHER LAW.—Section 712(a) of title
14 14, United States Code, is amended by striking
15 “section 2(15) of the Homeland Security Act of
16 2002 (6 U.S.C. 101(15))” and inserting “sec-
17 tion 2(16) of the Homeland Security Act of
18 2002 (6 U.S.C. 101(16))”.

19 (c) RESPONSIBILITIES OF THE UNDER SECRETARY
20 FOR INFORMATION ANALYSIS AND INFRASTRUCTURE
21 PROTECTION.—Section 201(d) of the Homeland Security
22 Act of 2002 (6 U.S.C. 121(d)) is amended—

23 (1) in paragraph (1), by inserting “, in support
24 of the mission responsibilities of the Department
25 and consistent with the functions of the National

1 Counterterrorism Center established under section
2 119 of the National Security Act of 1947 (50 U.S.C.
3 50 U.S.C. 404o),” after “and to integrate such in-
4 formation”; and

5 (2) by striking paragraph (8) and inserting the
6 following:

7 “(8) To review, analyze, and make rec-
8 ommendations for improvements in the policies and
9 procedures governing the sharing of intelligence in-
10 formation, intelligence-related information, and other
11 information relating to homeland security within the
12 Federal Government and among the Federal Govern-
13 ment and State, local, and tribal government agen-
14 cies and authorities, consistent with the information
15 sharing environment established under section 1016
16 of the Intelligence Reform and Terrorism Prevention
17 Act of 2004 (6 U.S.C. 485) and any policies, guide-
18 lines, procedures, instructions or standards estab-
19 lished by the President or, as appropriate, the pro-
20 gram manager for implementation and management
21 of that environment.”.

22 **SEC. 113. INFORMATION SHARING.**

23 Section 1016 of the Intelligence Reform and Ter-
24 rorist Prevention Act of 2004 (6 U.S.C. 485) is amend-
25 ed—

1 (1) in subsection (a)—

2 (A) by redesignating paragraphs (1)
3 through (4) as paragraphs (2) through (5), re-
4 spectively;

5 (B) by inserting before paragraph (2), as
6 so redesignated, the following:

7 “(1) HOMELAND SECURITY INFORMATION.—

8 The term ‘homeland security information’ has the
9 meaning given that term in section 892 of the
10 Homeland Security Act of 2002 (6 U.S.C. 482).”;

11 (C) in paragraph (5), as so redesignated—

12 (i) by redesignating subparagraphs
13 (A) through (D) as clauses (i) through
14 (iv), respectively, and adjusting the margin
15 accordingly;

16 (ii) by striking “‘terrorism informa-
17 tion’ means” and inserting the following:
18 “‘terrorism information’—

19 “(A) means”;

20 (iii) in subparagraph (A)(iv), as so re-
21 designated, by striking the period at the
22 end and inserting “; and”; and

23 (iv) by adding at the end the fol-
24 lowing:

1 “(B) includes homeland security informa-
2 tion and weapons of mass destruction informa-
3 tion.”; and

4 (D) by adding at the end the following:

5 “(6) WEAPONS OF MASS DESTRUCTION INFOR-
6 MATION.—The term ‘weapons of mass destruction
7 information’ means information that could reason-
8 ably be expected to assist in the development, pro-
9 liferation, or use of a weapon of mass destruction
10 (including chemical, biological, radiological, and nu-
11 clear weapons) that could be used by a terrorist or
12 a terrorist organization against the United States,
13 including information about the location of any
14 stockpile of nuclear materials that could be exploited
15 for use in such a weapon that could be used by a
16 terrorist or a terrorist organization against the
17 United States.”;

18 (2) in subsection (b)(2)—

19 (A) in subparagraph (H), by striking
20 “and” at the end;

21 (B) in subparagraph (I), by striking the
22 period at the end and inserting a semicolon;
23 and

24 (C) by adding at the end the following:

1 “(J) integrates the information within the
2 scope of the information sharing environment,
3 including any such information in legacy tech-
4 nologies;

5 “(K) integrates technologies, including all
6 legacy technologies, through Internet-based
7 services;

8 “(L) allows the full range of analytic and
9 operational activities without the need to cen-
10 tralize terrorism information, weapons of mass
11 destruction information, and homeland security
12 information;

13 “(M) permits analysts to collaborate both
14 independently and in a group (commonly known
15 as ‘collective and noncollective collaboration’),
16 and across multiple levels of national security
17 information and controlled unclassified informa-
18 tion;

19 “(N) provides a resolution process that en-
20 ables changes by authorized officials regarding
21 rules and policies for the access, use, and reten-
22 tion of information within the scope of the in-
23 formation sharing environment; and

1 “(O) incorporates continuous, real-time,
2 and immutable audit capabilities, to the max-
3 imum extent practicable.”;

4 (3) in subsection (f)—

5 (A) in paragraph (1)—

6 (i) by striking “during the two-year
7 period beginning on the date of designation
8 under this paragraph unless sooner” and
9 inserting “until”; and

10 (ii) by striking “The program man-
11 ager shall have and exercise government-
12 wide authority.” and inserting “Except as
13 otherwise expressly provided by law, the
14 program manager, in consultation with the
15 head of any affected department or agency,
16 shall have and exercise governmentwide
17 authority over the sharing of information
18 within the scope of the information sharing
19 environment by all Federal departments,
20 agencies, and components, irrespective of
21 the Federal department, agency, or compo-
22 nent in which the program manager may
23 be administratively located.”; and

24 (B) in paragraph (2)(A)—

1 (i) by redesignating clause (iii) as
2 clause (v); and

3 (ii) by striking clause (ii) and insert-
4 ing the following:

5 “(ii) assist in the development of poli-
6 cies, as appropriate, to foster the develop-
7 ment and proper operation of the ISE;

8 “(iii) issue governmentwide proce-
9 dures, guidelines, instructions, and func-
10 tional standards, as appropriate, for the
11 management, development, and proper op-
12 eration of the ISE;

13 “(iv) identify and resolve information
14 sharing disputes between Federal depart-
15 ments, agencies, and components; and”;

16 (4) in subsection (g)—

17 (A) in paragraph (1), by striking “during
18 the two-year period beginning on the date of
19 the initial designation of the program manager
20 by the President under subsection (f)(1), unless
21 sooner” and inserting “until”;

22 (B) in paragraph (2)—

23 (i) in subparagraph (F), by striking
24 “and” at the end;

1 (ii) by redesignating subparagraph
2 (G) as subparagraph (I); and

3 (iii) by inserting after subparagraph
4 (F) the following:

5 “(G) assist the program manager in identi-
6 fying and resolving information sharing dis-
7 putes between Federal departments, agencies,
8 and components;

9 “(H) identify appropriate personnel for as-
10 signment to the program manager to support
11 staffing needs identified by the program man-
12 ager; and”;

13 (C) in paragraph (4), by inserting “(in-
14 cluding any subsidiary group of the Information
15 Sharing Council)” before “shall not be subject”;
16 and

17 (D) by adding at the end the following:

18 “(5) DETAILEES.—Upon a request by the Di-
19 rector of National Intelligence, the departments and
20 agencies represented on the Information Sharing
21 Council shall detail to the program manager, on a
22 reimbursable basis, appropriate personnel identified
23 under paragraph (2)(H).”;

1 (5) in subsection (h), by striking “and annually
2 thereafter” and inserting “and not later than June
3 30 of each year thereafter”; and

4 (6) by striking subsection (j) and inserting the
5 following:

6 “(j) REPORT ON THE INFORMATION SHARING ENVI-
7 RONMENT.—

8 “(1) IN GENERAL.—Not later than 180 days
9 after the date of enactment of the Improving Amer-
10 ica’s Security Act of 2007, the President shall report
11 to the Committee on Homeland Security and Gov-
12 ernmental Affairs of the Senate, the Select Com-
13 mittee on Intelligence of the Senate, the Committee
14 on Homeland Security of the House of Representa-
15 tives, and the Permanent Select Committee on Intel-
16 ligence of the House of Representatives on the feasi-
17 bility of—

18 “(A) eliminating the use of any marking or
19 process (including ‘Originator Control’) in-
20 tended to, or having the effect of, restricting
21 the sharing of terrorism information, weapons
22 of mass destruction information, and homeland
23 security information between and among par-
24 ticipants in the information sharing environ-
25 ment, unless the President has—

1 “(i) specifically exempted categories of
2 information from such elimination; and

3 “(ii) reported that exemption to the
4 committees of Congress described in the
5 matter preceding this paragraph; and

6 “(B) continuing to use Federal agency
7 standards in effect on such date of enactment
8 for the collection, sharing, and access to ter-
9 rorism information, weapons of mass destruc-
10 tion information, and homeland security infor-
11 mation relating to citizens and lawful perma-
12 nent residents;

13 “(C) replacing the standards described in
14 subparagraph (B) with a standard that would
15 allow mission-based or threat-based permission
16 to access or share terrorism information, weap-
17 ons of mass destruction information, and home-
18 land security information for a particular pur-
19 pose that the Federal Government, through an
20 appropriate process, has determined to be law-
21 fully permissible for a particular agency, com-
22 ponent, or employee (commonly known as an
23 ‘authorized use’ standard); and

24 “(D) the use of anonymized data by Fed-
25 eral departments, agencies, or components col-

1 lecting, possessing, disseminating, or handling
2 terrorism information, weapons of mass de-
3 struction information, and homeland security
4 information, in any cases in which—

5 “(i) the use of such information is
6 reasonably expected to produce results ma-
7 terially equivalent to the use of information
8 that is transferred or stored in a non-
9 anonymized form; and

10 “(ii) such use is consistent with any
11 mission of that department, agency, or
12 component (including any mission under a
13 Federal statute or directive of the Presi-
14 dent) that involves the storage, retention,
15 sharing, or exchange of personally identifi-
16 able information.

17 “(2) DEFINITION.—In this subsection, the term
18 ‘anonymized data’ means data in which the indi-
19 vidual to whom the data pertains is not identifiable
20 with reasonable efforts, including information that
21 has been encrypted or hidden through the use of
22 other technology.

23 “(k) ADDITIONAL POSITIONS.—The program man-
24 ager is authorized to hire not more than 40 full-time em-
25 ployees to assist the program manager in—

1 “(1) identifying and resolving information shar-
2 ing disputes between Federal departments, agencies,
3 and components under subsection (f)(2)(A)(iv); and

4 “(2) other activities associated with the imple-
5 mentation of the information sharing environment,
6 including—

7 “(A) implementing the requirements under
8 subsection (b)(2); and

9 “(B) any additional implementation initia-
10 tives to enhance and expedite the creation of
11 the information sharing environment.

12 “(l) AUTHORIZATION OF APPROPRIATIONS.—There is
13 authorized to be appropriated to carry out this section
14 \$30,000,000 for each of fiscal years 2008 and 2009.”.

15 **SEC. 114. INTELLIGENCE TRAINING DEVELOPMENT FOR**
16 **STATE AND LOCAL GOVERNMENT OFFICIALS.**

17 (a) CURRICULUM.—The Secretary, acting through
18 the Chief Intelligence Officer, shall develop curriculum for
19 the training of State, local, and tribal government officials
20 relating to the handling, review, and development of intel-
21 ligence material.

22 (b) TRAINING.—The Federal Law Enforcement
23 Training Center, or such other entity approved by the Sec-
24 retary, shall train State, local, and tribal officials based
25 on the curriculum developed under subsection (a).

1 (c) CONSULTATION.—In carrying out the duties de-
2 scribed in subsection (a), the Chief Intelligence Officer
3 shall consult with the Director of the Federal Law En-
4 forcement Training Center, the Attorney General, the Di-
5 rector of National Intelligence, the Administrator of the
6 Federal Emergency Management Agency, and other ap-
7 propriate parties, such as private industry, institutions of
8 higher education, nonprofit institutions, and other intel-
9 ligence agencies of the Federal Government.

10 (d) AUTHORIZATION OF APPROPRIATIONS.—There
11 are authorized to be appropriated such sums as are nec-
12 essary to carry out this section.

13 **SEC. 115. INFORMATION SHARING INCENTIVES.**

14 (a) AWARDS.—In making cash awards under chapter
15 45 of title 5, United States Code, the President or the
16 head of an agency, in consultation with the program man-
17 ager designated under section 1016 of the Intelligence Re-
18 form and Terrorist Prevention Act of 2004 (6 U.S.C.
19 485), may consider the success of an employee in sharing
20 terrorism information, weapons of mass destruction infor-
21 mation, or homeland security information (as those terms
22 are defined in section 1016 of the Intelligence Reform and
23 Terrorist Prevention Act of 2004 (6 U.S.C. 485), as
24 amended by this Act) in a manner consistent with any
25 policies, guidelines, procedures, instructions, or standards

1 established by the President or, as appropriate, the pro-
2 gram manager of the information sharing environment es-
3 tablished under that section for the implementation and
4 management of that environment.

5 (b) OTHER INCENTIVES.—The head of each depart-
6 ment or agency described in section 1016(i) of the Intel-
7 ligence Reform and Terrorist Prevention Act of 2004 (6
8 U.S.C. 485(i)), in consultation with the program manager
9 designated under section 1016 of the Intelligence Reform
10 and Terrorist Prevention Act of 2004 (6 U.S.C. 485),
11 shall adopt best practices regarding effective ways to edu-
12 cate and motivate officers and employees of the Federal
13 Government to engage in the information sharing environ-
14 ment, including—

15 (1) promotions and other nonmonetary awards;

16 and

17 (2) publicizing information sharing accomplish-
18 ments by individual employees and, where appro-
19 priate, the tangible end benefits that resulted.

20 **Subtitle B—Homeland Security**

21 **Information Sharing Partnerships**

22 **SEC. 121. SHORT TITLE.**

23 This subtitle may be cited as the “Homeland Security
24 Information Sharing Partnerships Act of 2007”.

1 **SEC. 122. STATE, LOCAL, AND REGIONAL FUSION CENTER**
2 **INITIATIVE.**

3 (a) IN GENERAL.—Subtitle A of title II of the Home-
4 land Security Act of 2002 (6 U.S.C. 121 et seq.), as
5 amended by this Act, is amended by adding at the end
6 the following:

7 **“SEC. 206. STATE, LOCAL, AND REGIONAL FUSION CENTER**
8 **INITIATIVE.**

9 “(a) DEFINITIONS.—In this section—

10 “(1) the term ‘Chief Intelligence Officer’ means
11 the Chief Intelligence Officer of the Department;

12 “(2) the term ‘fusion center’ means a collabo-
13 rative effort of 2 or more Federal, State, local, or
14 tribal government agencies that combines resources,
15 expertise, or information with the goal of maxi-
16 mizing the ability of such agencies to detect, pre-
17 vent, investigate, apprehend, and respond to criminal
18 or terrorist activity;

19 “(3) the term ‘information sharing environ-
20 ment’ means the information sharing environment
21 established under section 1016 of the Intelligence
22 Reform and Terrorism Prevention Act of 2004 (6
23 U.S.C. 485);

24 “(4) the term ‘intelligence analyst’ means an
25 individual who regularly advises, administers, super-
26 vises, or performs work in the collection, analysis,

1 evaluation, reporting, production, or dissemination
2 of information on political, economic, social, cultural,
3 physical, geographical, scientific, or military condi-
4 tions, trends, or forces in foreign or domestic areas
5 that directly or indirectly affect national security;

6 “(5) the term ‘intelligence-led policing’ means
7 the collection and analysis of information to produce
8 an intelligence end product designed to inform law
9 enforcement decision making at the tactical and
10 strategic levels; and

11 “(6) the term ‘terrorism information’ has the
12 meaning given that term in section 1016 of the In-
13 telligence Reform and Terrorist Prevention Act of
14 2004 (6 U.S.C. 485).

15 “(b) ESTABLISHMENT.—The Secretary, in consulta-
16 tion with the program manager of the information sharing
17 environment established under section 1016 of the Intel-
18 ligence Reform and Terrorist Prevention Act of 2004 (6
19 U.S.C. 485), the Attorney General, the Privacy Officer of
20 the Department, the Officer for Civil Rights and Civil Lib-
21 erties of the Department, and the Privacy and Civil Lib-
22 erties Oversight Board established under section 1061 of
23 the Intelligence Reform and Terrorist Prevention Act of
24 2004 (5 U.S.C. 601 note), shall establish a State, Local,

1 and Regional Fusion Center Initiative to establish part-
2 nerships with State, local, and regional fusion centers.

3 “(c) DEPARTMENT SUPPORT AND COORDINATION.—
4 Through the State, Local, and Regional Fusion Center
5 Initiative, the Secretary shall—

6 “(1) coordinate with the principal officer of
7 each State, local, or regional fusion center and the
8 officer designated as the Homeland Security Advisor
9 of the State;

10 “(2) provide operational and intelligence advice
11 and assistance to State, local, and regional fusion
12 centers;

13 “(3) support efforts to include State, local, and
14 regional fusion centers into efforts to establish an
15 information sharing environment;

16 “(4) conduct exercises, including live training
17 exercises, to regularly assess the capability of indi-
18 vidual and regional networks of State, local, and re-
19 gional fusion centers to integrate the efforts of such
20 networks with the efforts of the Department;

21 “(5) coordinate with other relevant Federal en-
22 tities engaged in homeland security-related activities;

23 “(6) provide analytic and reporting advice and
24 assistance to State, local, and regional fusion cen-
25 ters;

1 “(7) review homeland security information
2 gathered by State, local, and regional fusion centers
3 and incorporate relevant information with homeland
4 security information of the Department;

5 “(8) provide management assistance to State,
6 local, and regional fusion centers;

7 “(9) serve as a point of contact to ensure the
8 dissemination of relevant homeland security informa-
9 tion;

10 “(10) facilitate close communication and coordi-
11 nation between State, local, and regional fusion cen-
12 ters and the Department;

13 “(11) provide State, local, and regional fusion
14 centers with expertise on Department resources and
15 operations;

16 “(12) provide training to State, local, and re-
17 gional fusion centers and encourage such fusion cen-
18 ters to participate in terrorist threat-related exer-
19 cises conducted by the Department; and

20 “(13) carry out such other duties as the Sec-
21 retary determines are appropriate.

22 “(d) PERSONNEL ASSIGNMENT.—

23 “(1) IN GENERAL.—The Chief Intelligence Offi-
24 cer may, to the maximum extent practicable, assign
25 officers and intelligence analysts from components of

1 the Department to State, local, and regional fusion
2 centers.

3 “(2) PERSONNEL SOURCES.—Officers and intel-
4 ligence analysts assigned to fusion centers under this
5 subsection may be assigned from the following De-
6 partment components, in consultation with the re-
7 spective component head:

8 “(A) Office of Intelligence and Analysis, or
9 its successor.

10 “(B) Office of Infrastructure Protection.

11 “(C) Transportation Security Administra-
12 tion.

13 “(D) United States Customs and Border
14 Protection.

15 “(E) United States Immigration and Cus-
16 toms Enforcement.

17 “(F) United States Coast Guard.

18 “(G) Other intelligence components of the
19 Department, as determined by the Secretary.

20 “(3) PARTICIPATION.—

21 “(A) IN GENERAL.—The Secretary may
22 develop qualifying criteria for a fusion center to
23 participate in the assigning of Department offi-
24 cers or intelligence analysts under this section.

1 “(B) CRITERIA.—Any criteria developed
2 under subparagraph (A) may include—

3 “(i) whether the fusion center,
4 through its mission and governance struc-
5 ture, focuses on a broad counterterrorism
6 approach, and whether that broad ap-
7 proach is pervasive through all levels of the
8 organization;

9 “(ii) whether the fusion center has
10 sufficient numbers of adequately trained
11 personnel to support a broad
12 counterterrorism mission;

13 “(iii) whether the fusion center has—

14 “(I) access to relevant law en-
15 forcement, emergency response, pri-
16 vate sector, open source, and national
17 security data; and

18 “(II) the ability to share and
19 analytically exploit that data for au-
20 thorized purposes;

21 “(iv) whether the fusion center is ade-
22 quately funded by the State, local, or re-
23 gional government to support its
24 counterterrorism mission; and

1 “(v) the relevancy of the mission of
2 the fusion center to the particular source
3 component of Department officers or intel-
4 ligence analysts.

5 “(4) PREREQUISITE.—

6 “(A) INTELLIGENCE ANALYSIS, PRIVACY,
7 AND CIVIL LIBERTIES TRAINING.—Before being
8 assigned to a fusion center under this section,
9 an officer or intelligence analyst shall under-
10 go—

11 “(i) appropriate intelligence analysis
12 or information sharing training using an
13 intelligence-led policing curriculum that is
14 consistent with—

15 “(I) standard training and edu-
16 cation programs offered to Depart-
17 ment law enforcement and intelligence
18 personnel; and

19 “(II) the Criminal Intelligence
20 Systems Operating Policies under part
21 23 of title 28, Code of Federal Regu-
22 lations (or any corresponding similar
23 regulation or ruling);

24 “(ii) appropriate privacy and civil lib-
25 erties training that is developed, supported,

1 or sponsored by the Privacy Officer ap-
2 pointed under section 222 and the Officer
3 for Civil Rights and Civil Liberties of the
4 Department, in partnership with the Pri-
5 vacy and Civil Liberties Oversight Board
6 established under section 1061 of the In-
7 telligence Reform and Terrorism Preven-
8 tion Act of 2004 (5 U.S.C. 601 note); and

9 “(iii) such other training prescribed
10 by the Chief Intelligence Officer.

11 “(B) PRIOR WORK EXPERIENCE IN
12 AREA.—In determining the eligibility of an offi-
13 cer or intelligence analyst to be assigned to a
14 fusion center under this section, the Chief Intel-
15 ligence Officer shall consider the familiarity of
16 the officer or intelligence analyst with the
17 State, locality, or region, as determined by such
18 factors as whether the officer or intelligence an-
19 alyst—

20 “(i) has been previously assigned in
21 the geographic area; or

22 “(ii) has previously worked with intel-
23 ligence officials or emergency response pro-
24 viders from that State, locality, or region.

1 “(5) EXPEDITED SECURITY CLEARANCE PROC-
2 ESSING.—The Chief Intelligence Officer—

3 “(A) shall ensure that each officer or intel-
4 ligence analyst assigned to a fusion center
5 under this section has the appropriate clearance
6 to contribute effectively to the mission of the
7 fusion center; and

8 “(B) may request that security clearance
9 processing be expedited for each such officer or
10 intelligence analyst.

11 “(6) FURTHER QUALIFICATIONS.—Each officer
12 or intelligence analyst assigned to a fusion center
13 under this section shall satisfy any other qualifica-
14 tions the Chief Intelligence Officer may prescribe.

15 “(e) RESPONSIBILITIES.—An officer or intelligence
16 analyst assigned to a fusion center under this section
17 shall—

18 “(1) assist law enforcement agencies and other
19 emergency response providers of State, local, and
20 tribal governments and fusion center personnel in
21 using Federal homeland security information to de-
22 velop a comprehensive and accurate threat picture;

23 “(2) review homeland security-relevant informa-
24 tion from law enforcement agencies and other emer-

1 agency response providers of State, local, and tribal
2 government;

3 “(3) create intelligence and other information
4 products derived from such information and other
5 homeland security-relevant information provided by
6 the Department;

7 “(4) assist in the dissemination of such prod-
8 ucts, under the coordination of the Chief Intelligence
9 Officer, to law enforcement agencies and other emer-
10 gency response providers of State, local, and tribal
11 government; and

12 “(5) assist in the dissemination of such prod-
13 ucts to the Chief Intelligence Officer for collection
14 and dissemination to other fusion centers.

15 “(f) DATABASE ACCESS.—In order to fulfill the ob-
16 jectives described under subsection (e), each officer or in-
17 telligence analyst assigned to a fusion center under this
18 section shall have direct access to all relevant Federal
19 databases and information systems, consistent with any
20 policies, guidelines, procedures, instructions, or standards
21 established by the President or, as appropriate, the pro-
22 gram manager of the information sharing environment for
23 the implementation and management of that environment.

24 “(g) CONSUMER FEEDBACK.—

1 “(1) IN GENERAL.—The Secretary shall create
2 a mechanism for any State, local, or tribal emer-
3 gency response provider who is a consumer of the in-
4 telligence or other information products described
5 under subsection (e) to voluntarily provide feedback
6 to the Department on the quality and utility of such
7 intelligence products.

8 “(2) RESULTS.—The results of the voluntary
9 feedback under paragraph (1) shall be provided elec-
10 tronically to Congress and appropriate personnel of
11 the Department.

12 “(h) RULE OF CONSTRUCTION.—

13 “(1) IN GENERAL.—The authorities granted
14 under this section shall supplement the authorities
15 granted under section 201(d) and nothing in this
16 section shall be construed to abrogate the authorities
17 granted under section 201(d).

18 “(2) PARTICIPATION.—Nothing in this section
19 shall be construed to require a State, local, or re-
20 gional government or entity to accept the assign-
21 ment of officers or intelligence analysts of the De-
22 partment into the fusion center of that State, local-
23 ity, or region.

24 “(i) GUIDELINES.—The Secretary, in consultation
25 with the Attorney General of the United States, shall es-

1 establish guidelines for fusion centers operated by State and
2 local governments, to include standards that any such fu-
3 sion center—

4 “(1) collaboratively develop a mission state-
5 ment, identify expectations and goals, measure per-
6 formance, and determine effectiveness for that fu-
7 sion center;

8 “(2) create a representative governance struc-
9 ture that includes emergency response providers and,
10 as appropriate, the private sector;

11 “(3) create a collaborative environment for the
12 sharing of information within the scope of the infor-
13 mation sharing environment established under sec-
14 tion 1016 of the Intelligence Reform and Terrorism
15 Prevention Act of 2004 (6 U.S.C. 485) among Fed-
16 eral, State, tribal, and local emergency response pro-
17 viders, the private sector, and the public, consistent
18 with any policies, guidelines, procedures, instruc-
19 tions, or standards established by the President or,
20 as appropriate, the program manager of the infor-
21 mation sharing environment;

22 “(4) leverage the databases, systems, and net-
23 works available from public and private sector enti-
24 ties to maximize information sharing;

1 “(5) develop, publish, and adhere to a privacy
2 and civil liberties policy consistent with Federal,
3 State, and local law;

4 “(6) ensure appropriate security measures are
5 in place for the facility, data, and personnel;

6 “(7) select and train personnel based on the
7 needs, mission, goals, and functions of that fusion
8 center; and

9 “(8) offer a variety of intelligence services and
10 products to recipients of fusion center intelligence
11 and information.

12 “(j) AUTHORIZATION OF APPROPRIATIONS.—Except
13 for subsection (i), there are authorized to be appropriated
14 such sums as necessary to carry out this section, including
15 for hiring officers and intelligence analysts to replace offi-
16 cers and intelligence analysts who are assigned to fusion
17 centers under this section.”.

18 (b) TECHNICAL AND CONFORMING AMENDMENT.—
19 The table of contents in section 1(b) of the Homeland Se-
20 curity Act of 2002 (6 U.S.C. 101 et seq.) is amended by
21 inserting after the item relating to section 205, as added
22 by this Act, the following:

 “Sec. 206. State, Local, and Regional Information Fusion Center Initiative.”.

23 (c) REPORTS.—

24 (1) CONCEPT OF OPERATIONS.—Not later than
25 90 days after the date of enactment of this Act and

1 before the State, Local, and Regional Fusion Center
2 Initiative under section 206 of the Homeland Security
3 Act of 2002, as added by subsection (a), (in this
4 section referred to as the “program”) has been im-
5 plemented, the Secretary, in consultation with the
6 Privacy Officer of the Department, the Officer for
7 Civil Rights and Civil Liberties of the Department,
8 and the Privacy and Civil Liberties Oversight Board
9 established under section 1061 of the Intelligence
10 Reform and Terrorist Prevention Act of 2004 (5
11 U.S.C. 601 note), shall submit to the Committee on
12 Homeland Security and Governmental Affairs of the
13 Senate and the Committee on Homeland Security of
14 the House of Representatives a report that contains
15 a concept of operations for the program, which
16 shall—

17 (A) include a clear articulation of the pur-
18 poses, goals, and specific objectives for which
19 the program is being developed;

20 (B) identify stakeholders in the program
21 and provide an assessment of their needs;

22 (C) contain a developed set of quantitative
23 metrics to measure, to the extent possible, pro-
24 gram output;

1 (D) contain a developed set of qualitative
2 instruments (including surveys and expert inter-
3 views) to assess the extent to which stake-
4 holders believe their needs are being met; and
5 (E) include a privacy and civil liberties im-
6 pact assessment.

7 (2) PRIVACY AND CIVIL LIBERTIES.—Not later
8 than 1 year after the date on which the State, Local,
9 and Regional Fusion Center Initiative is imple-
10 mented, the Privacy and Civil Liberties Oversight
11 Board established under section 1061 of the Intel-
12 ligence Reform and Terrorist Prevention Act of
13 2004 (5 U.S.C. 601 note), in consultation with the
14 Privacy Officer of the Department and the Officer
15 for Civil Rights and Civil Liberties of the Depart-
16 ment, shall submit to Congress, the Secretary, and
17 the Chief Intelligence Officer of the Department a
18 report on the privacy and civil liberties impact of the
19 Initiative.

20 **SEC. 123. HOMELAND SECURITY INFORMATION SHARING**
21 **FELLOWS PROGRAM.**

22 (a) ESTABLISHMENT OF PROGRAM.—Subtitle A of
23 title II of the Homeland Security Act of 2002 (6 U.S.C.
24 121 et seq.), as amended by this Act, is amended by add-
25 ing at the end the following:

1 **“SEC. 207. HOMELAND SECURITY INFORMATION SHARING**
2 **FELLOWS PROGRAM.**

3 “(a) ESTABLISHMENT.—

4 “(1) IN GENERAL.—The Secretary, acting
5 through the Chief Intelligence Officer, shall establish
6 a fellowship program in accordance with this section
7 for the purpose of—

8 “(A) detailing State, local, and tribal law
9 enforcement officers and intelligence analysts to
10 the Department to participate in the work of
11 the Office of Intelligence and Analysis in order
12 to become familiar with—

13 “(i) the relevant missions and capa-
14 bilities of the Department and other Fed-
15 eral agencies; and

16 “(ii) the role, programs, products, and
17 personnel of the Office of Intelligence and
18 Analysis; and

19 “(B) promoting information sharing be-
20 tween the Department and State, local, and
21 tribal law enforcement officers and intelligence
22 analysts by assigning such officers and analysts
23 to—

24 “(i) serve as a point of contact in the
25 Department to assist in the representation

1 of State, local, and tribal homeland secu-
2 rity information needs;

3 “(ii) identify homeland security infor-
4 mation of interest to State, local, and trib-
5 al law enforcement officers, emergency re-
6 sponse providers, and intelligence analysts;
7 and

8 “(iii) assist Department analysts in
9 preparing and disseminating terrorism-re-
10 lated products that are tailored to State,
11 local, and tribal emergency response pro-
12 viders, law enforcement officers, and intel-
13 ligence analysts and designed to prepare
14 for and thwart terrorist attacks.

15 “(2) PROGRAM NAME.—The program under
16 this section shall be known as the ‘Homeland Secu-
17 rity Information Sharing Fellows Program’.

18 “(b) ELIGIBILITY.—

19 “(1) IN GENERAL.—In order to be eligible for
20 selection as an Information Sharing Fellow under
21 the program under this section, an individual shall—

22 “(A) have homeland security-related re-
23 sponsibilities;

24 “(B) be eligible for an appropriate national
25 security clearance;

1 “(C) possess a valid need for access to
2 classified information, as determined by the
3 Chief Intelligence Officer;

4 “(D) be an employee of an eligible entity;
5 and

6 “(E) have undergone appropriate privacy
7 and civil liberties training that is developed,
8 supported, or sponsored by the Privacy Officer
9 and the Officer for Civil Rights and Civil Lib-
10 erties, in partnership with the Privacy and Civil
11 Liberties Oversight Board established under
12 section 1061 of the Intelligence Reform and
13 Terrorist Prevention Act of 2004 (5 U.S.C. 601
14 note).

15 “(2) ELIGIBLE ENTITIES.—In this subsection,
16 the term ‘eligible entity’ means—

17 “(A) a State, local, or regional fusion cen-
18 ter;

19 “(B) a State or local law enforcement or
20 other government entity that serves a major
21 metropolitan area, suburban area, or rural area,
22 as determined by the Secretary;

23 “(C) a State or local law enforcement or
24 other government entity with port, border, or

1 agricultural responsibilities, as determined by
2 the Secretary;

3 “(D) a tribal law enforcement or other au-
4 thority; or

5 “(E) such other entity as the Secretary de-
6 termines is appropriate.

7 “(c) OPTIONAL PARTICIPATION.—No State, local, or
8 tribal law enforcement or other government entity shall
9 be required to participate in the Homeland Security Infor-
10 mation Sharing Fellows Program.

11 “(d) PROCEDURES FOR NOMINATION AND SELEC-
12 TION.—

13 “(1) IN GENERAL.—The Chief Intelligence Offi-
14 cer shall establish procedures to provide for the
15 nomination and selection of individuals to participate
16 in the Homeland Security Information Sharing Fel-
17 lows Program.

18 “(2) LIMITATIONS.—The Chief Intelligence Of-
19 ficer shall—

20 “(A) select law enforcement officers and
21 intelligence analysts representing a broad cross-
22 section of State, local, and tribal agencies; and

23 “(B) ensure that the number of Informa-
24 tion Sharing Fellows selected does not impede

1 the activities of the Office of Intelligence and
2 Analysis.

3 “(e) LENGTH OF SERVICE.—Information Sharing
4 Fellows shall serve for a reasonable period of time, as de-
5 termined by the Chief Intelligence Officer. Such period of
6 time shall be sufficient to advance the information-sharing
7 goals of the Chief Intelligence Officer and encourage par-
8 ticipation by as many qualified nominees as possible.

9 “(f) CONDITION.—As a condition of selecting an indi-
10 vidual as an Information Sharing Fellow under the pro-
11 gram, the Chief Intelligence Officer shall require that the
12 employer of an individual agree to continue to pay the sal-
13 ary and benefits of that individual during the period for
14 which that individual is detailed.

15 “(g) STIPEND.—During the period for which an indi-
16 vidual is detailed under the program, the Chief Intel-
17 ligence Officer may, subject to the availability of appro-
18 priations, provide to that individual a stipend to cover the
19 reasonable living expenses of that individual for that pe-
20 riod.

21 “(h) SECURITY CLEARANCES.—If an individual se-
22 lected for a fellowship under the Information Sharing Fel-
23 lows Program does not possess the appropriate security
24 clearance, the Chief Intelligence Officer may request that
25 security clearance processing is expedited for such indi-

1 vidual and shall ensure that each such Information Shar-
2 ing Fellow has obtained the appropriate security clearance
3 prior to participation in the program under this section.

4 “(i) DEFINITIONS.—In this section—

5 “(1) the term ‘Chief Intelligence Officer’ means
6 the Chief Intelligence Officer of the Department;
7 and

8 “(2) the term ‘Office of Intelligence and Anal-
9 ysis’ means the office of the Chief Intelligence Offi-
10 cer.”.

11 (b) TECHNICAL AND CONFORMING AMENDMENT.—
12 The table of contents in section 1(b) of the Homeland Se-
13 curity Act of 2002 (6 U.S.C. 101 et seq.) is amended by
14 inserting after the item relating to section 206, as added
15 by this Act, the following:

“Sec. 207. Homeland Security Information Sharing Fellows Program.”.

16 (c) REPORTS.—

17 (1) CONCEPT OF OPERATIONS.—Not later than
18 90 days after the date of enactment of this Act, and
19 before the implementation of the Homeland Security
20 Information Sharing Fellows Program under section
21 207 of the Homeland Security Act of 2002, as
22 added by subsection (a), (in this section referred to
23 as the “Program”) the Secretary, in consultation
24 with the Privacy Officer of the Department, the Of-
25 ficer for Civil Rights and Civil Liberties of the De-

1 partment, and the Privacy and Civil Liberties Over-
2 sight Board established under section 1061 of the
3 Intelligence Reform and Terrorist Prevention Act of
4 2004 (5 U.S.C. 601 note), shall submit to the Com-
5 mittee on Homeland Security and Governmental Af-
6 fairs of the Senate and the Committee on Homeland
7 Security of the House of Representatives a report
8 that contains a concept of operations for the Pro-
9 gram, which shall include a privacy and civil liberties
10 impact assessment.

11 (2) REVIEW OF PRIVACY IMPACT.—Not later
12 than 1 year after the date on which the Program is
13 implemented, the Privacy and Civil Liberties Over-
14 sight Board established under section 1061 of the
15 Intelligence Reform and Terrorist Prevention Act of
16 2004 (5 U.S.C. 601 note), in consultation with the
17 Privacy Officer of the Department and the Officer
18 for Civil Rights and Civil Liberties of the Depart-
19 ment, shall submit to Congress, the Secretary, and
20 the Chief Intelligence Officer of the Department a
21 report on the privacy and civil liberties impact of the
22 Program.

1 **Subtitle C—Interagency Threat As-**
2 **essment and Coordination**
3 **Group**

4 **SEC. 131. INTERAGENCY THREAT ASSESSMENT AND CO-**
5 **ORDINATION GROUP.**

6 (a) IN GENERAL.—As part of efforts to establish the
7 information sharing environment established under section
8 1016 of the Intelligence Reform and Terrorism Prevention
9 Act of 2004 (6 U.S.C. 485), the program manager shall
10 oversee and coordinate the creation and ongoing operation
11 of an Interagency Threat Assessment and Coordination
12 Group (in this section referred to as the “ITACG”).

13 (b) RESPONSIBILITIES.—The ITACG shall facilitate
14 the production of federally coordinated terrorism informa-
15 tion, weapons of mass destruction information, and home-
16 land security information (as those terms are defined in
17 section 1016 of the Intelligence Reform and Terrorism
18 Prevention Act of 2004 (6 U.S.C. 485), as amended by
19 this Act) products intended for distribution to State, local,
20 and tribal government officials and the private sector.

21 (c) OPERATIONS.—

22 (1) IN GENERAL.—The ITACG shall be located
23 at the facilities of the National Counterterrorism
24 Center of the Office of the Director of National In-
25 telligence.

1 (2) MANAGEMENT.—

2 (A) IN GENERAL.—The Secretary shall as-
3 sign a senior level officer to manage and direct
4 the administration of the ITACG.

5 (B) DISTRIBUTION.—The Secretary, in
6 consultation with the Attorney General and the
7 heads of other agencies, as appropriate, shall
8 determine how specific products shall be distrib-
9 uted to State, local and tribal officials and pri-
10 vate sector partners under this section.

11 (C) STANDARDS FOR ADMISSION.—The
12 Secretary, acting through the Chief Intelligence
13 Officer and in consultation with the Director of
14 National Intelligence, the Attorney General, and
15 the program manager of the information shar-
16 ing environment established under section 1016
17 of the Intelligence Reform and Terrorist Pre-
18 vention Act of 2004 (6 U.S.C. 485), shall es-
19 tablish standards for the admission of law en-
20 forcement and intelligence officials from a
21 State, local, or tribal government into the
22 ITACG.

23 (d) MEMBERSHIP.—

24 (1) IN GENERAL.—The ITACG shall include
25 representatives of—

- 1 (A) the Department;
2 (B) the Federal Bureau of Investigation;
3 (C) the Department of Defense;
4 (D) law enforcement and intelligence offi-
5 cials from State, local, and tribal governments,
6 as appropriate; and
7 (E) other Federal entities as appropriate.

8 (2) CRITERIA.—The program manager for the
9 information sharing environment, in consultation
10 with the Secretary of Defense, the Secretary, the Di-
11 rector of National Intelligence, and the Director of
12 the Federal Bureau of Investigation shall develop
13 qualifying criteria and establish procedures for se-
14 lecting personnel assigned to the ITACG and for the
15 proper handling and safeguarding of information re-
16 lated to terrorism.

17 (e) INAPPLICABILITY OF THE FEDERAL ADVISORY
18 COMMITTEE ACT.—The ITACG and any subsidiary
19 groups thereof shall not be subject to the requirements
20 of the Federal Advisory Committee Act (5 U.S.C. App.).

21 **TITLE II—HOMELAND SECURITY** 22 **GRANTS**

23 **SEC. 201. SHORT TITLE.**

24 This title may be cited as the “Homeland Security
25 Grant Enhancement Act of 2007”.

1 **SEC. 202. HOMELAND SECURITY GRANT PROGRAM.**

2 The Homeland Security Act of 2002 (6 U.S.C. 101
3 et seq.) is amended by adding at the end the following:

4 **“TITLE XX—HOMELAND**
5 **SECURITY GRANTS**

6 **“SEC. 2001. DEFINITIONS.**

7 “In this title, the following definitions shall apply:

8 “(1) ADMINISTRATOR.—The term ‘Adminis-
9 trator’ means the Administrator of the Federal
10 Emergency Management Agency.

11 “(2) COMBINED STATISTICAL AREA.—The term
12 ‘combined statistical area’ means a combined statis-
13 tical area, as defined by the Office of Management
14 and Budget.

15 “(3) DIRECTLY ELIGIBLE TRIBE.—The term
16 ‘directly eligible tribe’ means—

17 “(A) any Indian tribe that—

18 “(i) is located in the continental
19 United States;

20 “(ii) operates a law enforcement or
21 emergency response agency with the capac-
22 ity to respond to calls for law enforcement
23 or emergency services;

24 “(iii) is located—

25 “(I) on, or within 50 miles of, an
26 international border or a coastline

1 bordering an ocean or international
2 waters;

3 “(II) within 10 miles of critical
4 infrastructure or has critical infra-
5 structure within its territory; or

6 “(III) within or contiguous to 1
7 of the 50 largest metropolitan statis-
8 tical areas in the United States; and

9 “(iv) certifies to the Secretary that a
10 State is not making funds distributed
11 under this title available to the Indian
12 tribe or consortium of Indian tribes for the
13 purpose for which the Indian tribe or con-
14 sortium of Indian tribes is seeking grant
15 funds; and

16 “(B) a consortium of Indian tribes, if each
17 tribe satisfies the requirements of subparagraph
18 (A).

19 “(4) ELIGIBLE METROPOLITAN AREA.—The
20 term ‘eligible metropolitan area’ means the fol-
21 lowing:

22 “(A) IN GENERAL.—A combination of 2 or
23 more incorporated municipalities, counties, par-
24 ishes, or Indian tribes that—

25 “(i) is within—

1 “(I) any of the 100 largest met-
2 ropolitan statistical areas in the
3 United States; or

4 “(II) any combined statistical
5 area, of which any metropolitan sta-
6 tistical area described in subpara-
7 graph (A) is a part; and

8 “(ii) includes the city with the largest
9 population in that metropolitan statistical
10 area.

11 “(B) OTHER COMBINATIONS.—Any other
12 combination of contiguous local or tribal gov-
13 ernments that are formally certified by the Ad-
14 ministrator as an eligible metropolitan area for
15 purposes of this title with the consent of the
16 State or States in which such local or tribal
17 governments are located.

18 “(C) INCLUSION OF ADDITIONAL LOCAL
19 GOVERNMENTS.—An eligible metropolitan area
20 may include additional local or tribal govern-
21 ments outside the relevant metropolitan statis-
22 tical area or combined statistical area that are
23 likely to be affected by, or be called upon to re-
24 spond to, a terrorist attack within the metro-
25 politan statistical area.

1 “(5) INDIAN TRIBE.—The term ‘Indian tribe’
2 has the meaning given that term in section 4(e) of
3 the Indian Self-Determination Act (25 U.S.C.
4 450b(e)).

5 “(6) METROPOLITAN STATISTICAL AREA.—The
6 term ‘metropolitan statistical area’ means a metro-
7 politan statistical area, as defined by the Office of
8 Management and Budget.

9 “(7) NATIONAL SPECIAL SECURITY EVENT.—
10 The term ‘National Special Security Event’ means a
11 designated event that, by virtue of its political, eco-
12 nomic, social, or religious significance, may be the
13 target of terrorism or other criminal activity.

14 “(8) POPULATION.—The term ‘population’
15 means population according to the most recent
16 United States census population estimates available
17 at the start of the relevant fiscal year.

18 “(9) POPULATION DENSITY.—The term ‘popu-
19 lation density’ means population divided by land
20 area in square miles.

21 “(10) TARGET CAPABILITIES.—The term ‘tar-
22 get capabilities’ means the target capabilities for
23 Federal, State, local, and tribal government pre-
24 paredness for which guidelines are required to be es-
25 tablished under section 646(a) of the Post-Katrina

1 Emergency Management Reform Act of 2006 (6
2 U.S.C. 746(a)).

3 “(11) TRIBAL GOVERNMENT.—The term ‘tribal
4 government’ means the government of an Indian
5 tribe.

6 **“SEC. 2002. HOMELAND SECURITY GRANT PROGRAM.**

7 “(a) ESTABLISHMENT.—There is established a
8 Homeland Security Grant Program, which shall consist
9 of—

10 “(1) the Urban Area Security Initiative estab-
11 lished under section 2003, or any successor thereto;

12 “(2) the State Homeland Security Grant Pro-
13 gram established under section 2004, or any suc-
14 cessor thereto;

15 “(3) the Emergency Management Performance
16 Grant Program established under section 2005 or
17 any successor thereto; and

18 “(4) the Emergency Communications and Inter-
19 operability Grants Program established under sec-
20 tion 1809, or any successor thereto.

21 “(b) GRANTS AUTHORIZED.—The Secretary, through
22 the Administrator, may award grants to State, local, and
23 tribal governments under the Homeland Security Grant
24 Program for the purposes of this title.

1 “(c) PROGRAMS NOT AFFECTED.—This title shall
2 not be construed to affect any authority to award grants
3 under any of the following Federal programs:

4 “(1) The firefighter assistance programs au-
5 thorized under section 33 and 34 of the Federal
6 Fire Prevention and Control Act of 1974 (15 U.S.C.
7 2229 and 2229a).

8 “(2) Except as provided in subsection (d), all
9 grant programs authorized under the Robert T.
10 Stafford Disaster Relief and Emergency Assistance
11 Act (42 U.S.C. 5121 et seq.), including the Urban
12 Search and Rescue Grant Program.

13 “(3) Grants to protect critical infrastructure,
14 including port security grants authorized under sec-
15 tion 70107 of title 46, United States Code.

16 “(4) The Metropolitan Medical Response Sys-
17 tem authorized under section 635 of the Post-
18 Katrina Emergency Management Reform Act of
19 2006 (6 U.S.C. 723).

20 “(5) Grant programs other than those adminis-
21 tered by the Department.

22 “(d) RELATIONSHIP TO OTHER LAWS.—

23 “(1) IN GENERAL.—The Homeland Security
24 Grant Program shall supercede—

1 “(A) all grant programs authorized under
2 section 1014 of the USA PATRIOT Act (42
3 U.S.C. 3714); and

4 “(B) the Emergency Management Per-
5 formance Grant authorized under the Robert T.
6 Stafford Disaster Relief and Emergency Assist-
7 ance Act (42 U.S.C. 5121 et seq.) and section
8 662 of the Post-Katrina Emergency Manage-
9 ment Reform Act of 2006 (6 U.S.C. 762).

10 “(2) ALLOCATION.—The allocation of grants
11 authorized under this title shall be governed by the
12 terms of this title and not by any other provision of
13 law.

14 **“SEC. 2003. URBAN AREA SECURITY INITIATIVE.**

15 “(a) ESTABLISHMENT.—There is established an
16 Urban Area Security Initiative to provide grants to assist
17 high-risk metropolitan areas in preventing, preparing for,
18 protecting against, responding to, and recovering from
19 acts of terrorism.

20 “(b) APPLICATION.—

21 “(1) IN GENERAL.—An eligible metropolitan
22 area may apply for grants under this section.

23 “(2) INFORMATION.—In an application for a
24 grant under this section, an eligible metropolitan
25 area shall submit—

1 “(A) a plan describing the proposed divi-
2 sion of responsibilities and distribution of fund-
3 ing among the local and tribal governments in
4 the eligible metropolitan area;

5 “(B) the name of an individual to serve as
6 a metropolitan area liaison with the Depart-
7 ment and among the various jurisdictions in the
8 metropolitan area; and

9 “(C) such information in support of the
10 application as the Administrator may reason-
11 ably require.

12 “(c) STATE REVIEW AND TRANSMISSION.—

13 “(1) IN GENERAL.—To ensure consistency with
14 State homeland security plans, an eligible metropoli-
15 tan area applying for a grant under this section
16 shall submit its application to each State within
17 which any part of the eligible metropolitan area is
18 located for review before submission of such applica-
19 tion to the Department.

20 “(2) DEADLINE.—Not later than 30 days after
21 receiving an application from an eligible metropoli-
22 tan area under paragraph (1), each such State shall
23 transmit the application to the Department.

24 “(3) STATE DISAGREEMENT.—If the Governor
25 of any such State determines that an application of

1 an eligible metropolitan area is inconsistent with the
2 State homeland security plan of that State, or other-
3 wise does not support the application, the Governor
4 shall—

5 “(A) notify the Administrator, in writing,
6 of that fact; and

7 “(B) provide an explanation of the reason
8 for not supporting the application at the time
9 of transmission of the application.

10 “(d) PRIORITIZATION.—In allocating funds among
11 metropolitan areas applying for grants under this section,
12 the Administrator shall consider—

13 “(1) the relative threat, vulnerability, and con-
14 sequences faced by the eligible metropolitan area
15 from a terrorist attack, including consideration of—

16 “(A) the population of the eligible metro-
17 politan area, including appropriate consider-
18 ation of military, tourist, and commuter popu-
19 lations, except that the Administrator shall not
20 establish a minimum population requirement
21 that would disqualify from consideration a met-
22 ropolitan area that otherwise faces significant
23 threats, vulnerabilities, or consequences from
24 acts of terrorism;

1 “(B) the population density of the eligible
2 metropolitan area;

3 “(C) the history of threats faced by the eli-
4 gible metropolitan area, including—

5 “(i) whether there has been a prior
6 terrorist attack in the eligible metropolitan
7 area; and

8 “(ii) whether any part of the eligible
9 metropolitan area, or any critical infra-
10 structure or key resource within the eligi-
11 ble metropolitan area, has ever experienced
12 a higher threat level under the Homeland
13 Security Advisory System than other parts
14 of the United States;

15 “(D) the degree of threat, vulnerability,
16 and consequences to the eligible metropolitan
17 area related to critical infrastructure or key re-
18 sources identified by the Secretary or the State
19 homeland security plan, including threats,
20 vulnerabilities, and consequences from critical
21 infrastructure in nearby jurisdictions;

22 “(E) whether the eligible metropolitan area
23 is located at or near an international border;

1 “(F) whether the eligible metropolitan area
2 has a coastline bordering ocean or international
3 waters;

4 “(G) threats, vulnerabilities, and con-
5 sequences faced by the eligible metropolitan
6 area related to at-risk sites or activities in near-
7 by jurisdictions, including the need to respond
8 to terrorist attacks arising in those jurisdic-
9 tions;

10 “(H) the most current threat assessments
11 available to the Department;

12 “(I) the extent to which the eligible metro-
13 politan area has unmet target capabilities;

14 “(J) the extent to which the eligible metro-
15 politan area includes—

16 “(i) all incorporated municipalities,
17 counties, parishes, and Indian tribes within
18 the relevant metropolitan statistical area or
19 combined statistical area; and

20 “(ii) other local governments and
21 tribes that are likely to be called upon to
22 respond to a terrorist attack within the eli-
23 gible metropolitan area; and

24 “(K) such other factors as are specified in
25 writing by the Administrator; and

1 “(2) the anticipated effectiveness of the pro-
2 posed spending plan for the eligible metropolitan
3 area in increasing the ability of that eligible metro-
4 politan area to prevent, prepare for, protect against,
5 respond to, and recover from terrorism, to meet its
6 target capabilities, and to otherwise reduce the over-
7 all risk to the metropolitan area, the State, and the
8 Nation.

9 “(e) OPPORTUNITY TO AMEND.—In considering ap-
10 plications for grants under this section, the Administrator
11 shall provide applicants with a reasonable opportunity to
12 correct defects in the application, if any, before making
13 final awards.

14 “(f) ALLOWABLE USES.—Grants awarded under this
15 section may be used to achieve target capabilities, con-
16 sistent with a State homeland security plan and relevant
17 local and regional homeland security plans, through—

18 “(1) developing and enhancing State, local, or
19 regional plans, risk assessments, or mutual aid
20 agreements;

21 “(2) purchasing, upgrading, storing, or main-
22 taining equipment;

23 “(3) designing, conducting, and evaluating
24 training and exercises, including exercises of mass
25 evacuation plans under section 512 and including

1 the payment of overtime and backfill costs in sup-
2 port of such activities;

3 “(4) responding to an increase in the threat
4 level under the Homeland Security Advisory System,
5 or to the needs resulting from a National Special Se-
6 curity Event, including payment of overtime and
7 backfill costs;

8 “(5) establishing, enhancing, and staffing with
9 appropriately qualified personnel State and local fu-
10 sion centers that comply with the guidelines estab-
11 lished under section 206(i);

12 “(6) protecting critical infrastructure and key
13 resources identified in the Critical Infrastructure
14 List established under section 1001 of the Improving
15 America’s Security Act of 2007, including the pay-
16 ment of appropriate personnel costs;

17 “(7) any activity permitted under the Fiscal
18 Year 2007 Program Guidance of the Department for
19 the Urban Area Security Initiative or the Law En-
20 forcement Terrorism Prevention Grant Program, in-
21 cluding activities permitted under the full-time
22 counterterrorism staffing pilot; and

23 “(8) any other activity relating to achieving tar-
24 get capabilities approved by the Administrator.

1 “(g) DISTRIBUTION OF AWARDS TO METROPOLITAN
2 AREAS.—

3 “(1) IN GENERAL.—If the Administrator ap-
4 proves the application of an eligible metropolitan
5 area for a grant under this section, the Adminis-
6 trator shall distribute the grant funds to the State
7 or States in which the eligible metropolitan area is
8 located.

9 “(2) STATE DISTRIBUTION OF FUNDS.—Each
10 State shall provide the eligible metropolitan area not
11 less than 80 percent of the grant funds. Any funds
12 retained by a State shall be expended on items or
13 services approved by the Administrator that benefit
14 the eligible metropolitan area.

15 “(3) MULTISTATE REGIONS.—If parts of an eli-
16 gible metropolitan area awarded a grant are located
17 in 2 or more States, the Secretary shall distribute to
18 each such State—

19 “(A) a portion of the grant funds in ac-
20 cordance with the proposed distribution set
21 forth in the application; or

22 “(B) if no agreement on distribution has
23 been reached, a portion of the grant funds in
24 proportion to each State’s share of the popu-
25 lation of the eligible metropolitan area.

1 **“SEC. 2004. STATE HOMELAND SECURITY GRANT PROGRAM.**

2 “(a) ESTABLISHMENT.—There is established a State
3 Homeland Security Grant Program to assist State, local,
4 and tribal governments in preventing, preparing for, pro-
5 tecting against, responding to, and recovering from acts
6 of terrorism.

7 “(b) APPLICATION.—Each State may apply for a
8 grant under this section, and shall submit such informa-
9 tion in support of the application as the Administrator
10 may reasonably require.

11 “(c) PRIORITIZATION.—In allocating funds among
12 States applying for grants under this section, the Adminis-
13 trator shall consider—

14 “(1) the relative threat, vulnerability, and con-
15 sequences faced by a State from a terrorist attack,
16 including consideration of—

17 “(A) the size of the population of the
18 State, including appropriate consideration of
19 military, tourist, and commuter populations;

20 “(B) the population density of the State;

21 “(C) the history of threats faced by the
22 State, including—

23 “(i) whether there has been a prior
24 terrorist attack in an urban area that is
25 wholly or partly in the State, or in the
26 State itself; and

1 “(ii) whether any part of the State, or
2 any critical infrastructure or key resource
3 within the State, has ever experienced a
4 higher threat level under the Homeland
5 Security Advisory System than other parts
6 of the United States;

7 “(D) the degree of threat, vulnerability,
8 and consequences related to critical infrastruc-
9 ture or key resources identified by the Secretary
10 or the State homeland security plan;

11 “(E) whether the State has an inter-
12 national border;

13 “(F) whether the State has a coastline bor-
14 dering ocean or international waters;

15 “(G) threats, vulnerabilities, and con-
16 sequences faced by a State related to at-risk
17 sites or activities in adjacent States, including
18 the State’s need to respond to terrorist attacks
19 arising in adjacent States;

20 “(H) the most current threat assessments
21 available to the Department;

22 “(I) the extent to which the State has
23 unmet target capabilities; and

24 “(J) such other factors as are specified in
25 writing by the Administrator;

1 “(2) the anticipated effectiveness of the pro-
2 posed spending plan of the State in increasing the
3 ability of the State to—

4 “(A) prevent, prepare for, protect against,
5 respond to, and recover from terrorism;

6 “(B) meet the target capabilities of the
7 State; and

8 “(C) otherwise reduce the overall risk to
9 the State and the Nation; and

10 “(3) the need to balance the goal of ensuring
11 the target capabilities of the highest risk areas are
12 achieved quickly and the goal of ensuring that basic
13 levels of preparedness, as measured by the attain-
14 ment of target capabilities, are achieved nationwide.

15 “(d) MINIMUM ALLOCATION.—In allocating funds
16 under subsection (c), the Administrator shall ensure that,
17 for each fiscal year—

18 “(1) except as provided for in paragraph (2), no
19 State receives less than an amount equal to 0.45
20 percent of the total funds appropriated for the State
21 Homeland Security Grant Program; and

22 “(2) American Samoa, the Commonwealth of
23 the Northern Mariana Islands, Guam, and the Vir-
24 gin Islands each receive not less than 0.8 percent of

1 the amounts appropriated for the State Homeland
2 Security Grant Program.

3 “(e) MULTISTATE PARTNERSHIPS.—

4 “(1) IN GENERAL.—Instead of, or in addition
5 to, any application for funds under subsection (b), 2
6 or more States may submit an application under this
7 paragraph for multistate efforts to prevent, prepare
8 for, protect against, respond to, or recover from acts
9 of terrorism.

10 “(2) GRANTEES.—Multistate grants may be
11 awarded to either—

12 “(A) an individual State acting on behalf
13 of a consortium or partnership of States with
14 the consent of all member States; or

15 “(B) a group of States applying as a con-
16 sortium or partnership.

17 “(3) ADMINISTRATION OF GRANT.—If a group
18 of States apply as a consortium or partnership such
19 States shall submit to the Secretary at the time of
20 application a plan describing—

21 “(A) the division of responsibilities for ad-
22 ministering the grant; and

23 “(B) the distribution of funding among the
24 various States and entities that are party to the
25 application.

1 “(f) FUNDING FOR LOCAL AND TRIBAL GOVERN-
2 MENTS.—

3 “(1) IN GENERAL.—The Administrator shall re-
4 quire that, not later than 60 days after receiving
5 grant funding, any State receiving a grant under
6 this section shall make available to local and tribal
7 governments and emergency response providers, con-
8 sistent with the applicable State homeland security
9 plan—

10 “(A) not less than 80 percent of the grant
11 funds;

12 “(B) with the consent of local and tribal
13 governments, the resources purchased with such
14 grant funds having a value equal to not less
15 than 80 percent of the amount of the grant; or

16 “(C) grant funds combined with resources
17 purchased with the grant funds having a value
18 equal to not less than 80 percent of the amount
19 of the grant.

20 “(2) EXTENSION OF PERIOD.—The Governor of
21 a State may request in writing that the Adminis-
22 trator extend the period under paragraph (1) for an
23 additional period of time. The Administrator may
24 approve such a request, and may extend such period
25 for an additional period, if the Administrator deter-

1 mines that the resulting delay in providing grant
2 funding to the local and tribal governments and
3 emergency response providers is necessary to pro-
4 mote effective investments to prevent, prepare for,
5 protect against, respond to, and recover from ter-
6 rorism, or to meet the target capabilities of the
7 State.

8 “(3) INDIAN TRIBES.—States shall be respon-
9 sible for allocating grant funds received under this
10 section to tribal governments in order to help those
11 tribal communities achieve target capabilities. Indian
12 tribes shall be eligible for funding directly from the
13 States, and shall not be required to seek funding
14 from any local government.

15 “(4) EXCEPTION.—Paragraph (1) shall not
16 apply to the District of Columbia, the Common-
17 wealth of Puerto Rico, American Samoa, the Com-
18 monwealth of the Northern Mariana Islands, Guam,
19 or the Virgin Islands.

20 “(g) GRANTS TO DIRECTLY ELIGIBLE TRIBES.—

21 “(1) IN GENERAL.—Notwithstanding subsection
22 (b), the Secretary may award grants to directly eligi-
23 ble tribes under this section.

24 “(2) TRIBAL APPLICATIONS.—A directly eligible
25 tribe may apply for a grant under this section by

1 submitting an application to the Administrator that
2 includes the information required for an application
3 by a State under subsection (b).

4 “(3) STATE REVIEW.—

5 “(A) IN GENERAL.—To ensure consistency
6 with State homeland security plans, a directly
7 eligible tribe applying for a grant under this
8 section shall submit its application to each
9 State within which any part of the tribe is lo-
10 cated for review before submission of such ap-
11 plication to the Department.

12 “(B) DEADLINE.—Not later than 30 days
13 after receiving an application from a directly el-
14 igible tribe under subparagraph (A), each such
15 State shall transmit the application to the De-
16 partment.

17 “(C) STATE DISAGREEMENT.—If the Gov-
18 ernor of any such State determines that the ap-
19 plication of a directly eligible tribe is incon-
20 sistent with the State homeland security plan of
21 that State, or otherwise does not support the
22 application, the Governor shall—

23 “(i) notify the Administrator, in writ-
24 ing, of that fact; and

1 “(ii) provide an explanation of the
2 reason for not supporting the application
3 at the time of transmission of the applica-
4 tion.

5 “(4) DISTRIBUTION OF AWARDS TO DIRECTLY
6 ELIGIBLE TRIBES.—If the Administrator awards
7 funds to a directly eligible tribe under this section,
8 the Administrator shall distribute the grant funds
9 directly to the directly eligible tribe. The funds shall
10 not be distributed to the State or States in which
11 the directly eligible tribe is located.

12 “(5) TRIBAL LIAISON.—A directly eligible tribe
13 applying for a grant under this section shall des-
14 ignate a specific individual to serve as the tribal liai-
15 son who shall—

16 “(A) coordinate with Federal, State, local,
17 regional, and private officials concerning ter-
18 rorism preparedness;

19 “(B) develop a process for receiving input
20 from Federal, State, local, regional, and private
21 officials to assist in the development of the ap-
22 plication of such tribe and to improve the ac-
23 cess of such tribe to grants; and

1 “(C) administer, in consultation with
2 State, local, regional, and private officials,
3 grants awarded to such tribe.

4 “(6) TRIBES RECEIVING DIRECT GRANTS.—A
5 directly eligible tribe that receives a grant directly
6 under this section is eligible to receive funds for
7 other purposes under a grant from the State or
8 States within the boundaries of which any part of
9 such tribe is located, consistent with the homeland
10 security plan of the State.

11 “(7) RULE OF CONSTRUCTION.—Nothing in
12 this section shall be construed to affect the authority
13 of an Indian tribe that receives funds under this sec-
14 tion.

15 “(h) OPPORTUNITY TO AMEND.—In considering ap-
16 plications for grants under this section, the Administrator
17 shall provide applicants with a reasonable opportunity to
18 correct defects in the application, if any, before making
19 final awards.

20 “(i) ALLOWABLE USES.—Grants awarded under this
21 section may be used to achieve target capabilities, con-
22 sistent with a State homeland security plan, through—

23 “(1) developing and enhancing State, local,
24 tribal, or regional plans, risk assessments, or mutual
25 aid agreements;

1 “(2) purchasing, upgrading, storing, or main-
2 taining equipment;

3 “(3) designing, conducting, and evaluating
4 training and exercises, including exercises of mass
5 evacuation plans under section 512 and including
6 the payment of overtime and backfill costs in sup-
7 port of such activities;

8 “(4) responding to an increase in the threat
9 level under the Homeland Security Advisory System,
10 including payment of overtime and backfill costs;

11 “(5) establishing, enhancing, and staffing with
12 appropriately qualified personnel State and local fu-
13 sion centers, that comply with the guidelines estab-
14 lished under section 206(i);

15 “(6) protecting critical infrastructure and key
16 resources identified in the Critical Infrastructure
17 List established under section 1001 of the Improving
18 America’s Security Act of 2007, including the pay-
19 ment of appropriate personnel costs;

20 “(7) any activity permitted under the Fiscal
21 Year 2007 Program Guidance of the Department for
22 the State Homeland Security Grant Program or the
23 Law Enforcement Terrorism Prevention Grant Pro-
24 gram, including activities permitted under the full-
25 time counterterrorism staffing pilot; and

1 “(8) any other activity relating to achieving tar-
2 get capabilities approved by the Administrator.

3 **“SEC. 2005. EMERGENCY MANAGEMENT PERFORMANCE**
4 **GRANTS PROGRAM.**

5 “(a) ESTABLISHMENT.—There is established an
6 Emergency Management Performance Grants Program to
7 make grants to States to assist State, local, and tribal gov-
8 ernments in preventing, preparing for, protecting against,
9 responding to, recovering from, and mitigating against all
10 hazards, including natural disasters, acts of terrorism, and
11 other man-made disasters.

12 “(b) APPLICATION.—Each State may apply for a
13 grant under this section, and shall submit such informa-
14 tion in support of an application as the Administrator may
15 reasonably require.

16 “(c) ALLOCATION.—Funds available under the Emer-
17 gency Management Performance Grants Program shall be
18 allocated as follows:

19 “(1) BASELINE AMOUNT.—

20 “(A) IN GENERAL.—Except as provided in
21 subparagraph (B), each State shall receive an
22 amount equal to 0.75 percent of the total funds
23 appropriated for grants under this section.

24 “(B) TERRITORIES.—American Samoa,
25 the Commonwealth of the Northern Mariana Is-

1 lands, Guam, and the Virgin Islands each shall
2 receive an amount equal to 0.25 percent of the
3 amounts appropriated for grants under this sec-
4 tion.

5 “(2) PER CAPITA ALLOCATION.—The funds re-
6 maining for grants under this section after allocation
7 of the baseline amounts under paragraph (1) shall
8 be allocated to each State in proportion to its popu-
9 lation.

10 “(d) ALLOWABLE USES.—Grants awarded under this
11 section may be used to achieve target capabilities, con-
12 sistent with a State homeland security plan or a cata-
13 strophic incident annex developed under section 613 of the
14 Robert T. Stafford Disaster Relief and Emergency Assist-
15 ance Act (42 U.S.C. 5196b) through—

16 “(1) any activity permitted under the Fiscal
17 Year 2007 Program Guidance of the Department for
18 Emergency Management Performance Grants; and

19 “(2) any other activity approved by the Admin-
20 istrator that will improve the capability of a State,
21 local, or tribal government in preventing, preparing
22 for, protecting against, responding to, recovering
23 from, or mitigating against all hazards, including
24 natural disasters, acts of terrorism, and other man-
25 made disasters.

1 “(e) COST SHARING.—

2 “(1) IN GENERAL.—The Federal share of the
3 costs of an activity carried out with a grant under
4 this section shall not exceed 75 percent.

5 “(2) IN-KIND MATCHING.—Each recipient of a
6 grant under this section may meet the matching re-
7 quirement under paragraph (1) by making in-kind
8 contributions of goods or services that are directly
9 linked with the purpose for which the grant is made.

10 “(f) LOCAL AND TRIBAL GOVERNMENTS.—

11 “(1) IN GENERAL.—In allocating grant funds
12 received under this section, a State shall take into
13 account the needs of local and tribal governments.

14 “(2) INDIAN TRIBES.—States shall be respon-
15 sible for allocating grant funds received under this
16 section to tribal governments in order to help those
17 tribal communities improve their capabilities in pre-
18 venting, preparing for, protecting against, respond-
19 ing to, recovering from, or mitigating against all
20 hazards, including natural disasters, acts of ter-
21 rorism, and other man-made disasters. Indian tribes
22 shall be eligible for funding directly from the States,
23 and shall not be required to seek funding from any
24 local government.

1 **“SEC. 2006. TERRORISM PREVENTION.**

2 “(a) LAW ENFORCEMENT TERRORISM PREVENTION
3 PROGRAM.—

4 “(1) IN GENERAL.—The Administrator shall
5 designate not less than 25 percent of the combined
6 amount appropriated for grants under sections 2003
7 and 2004 to be used for law enforcement terrorism
8 prevention activities.

9 “(2) USE OF FUNDS.—Grants awarded under
10 this subsection may be used for—

11 “(A) information sharing to preempt ter-
12 rorist attacks;

13 “(B) target hardening to reduce the vul-
14 nerability of selected high value targets;

15 “(C) threat recognition to recognize the
16 potential or development of a threat;

17 “(D) intervention activities to interdict ter-
18 rorists before they can execute a threat;

19 “(E) overtime expenses related to a State
20 homeland security plan, including overtime
21 costs associated with providing enhanced law
22 enforcement operations in support of Federal
23 agencies for increased border security and bor-
24 der crossing enforcement;

25 “(F) establishing, enhancing, and staffing
26 with appropriately qualified personnel State and

1 local fusion centers that comply with the guide-
2 lines established under section 206(i);

3 “(G) any other activity permitted under
4 the Fiscal Year 2007 Program Guidance of the
5 Department for the Law Enforcement Ter-
6 rorism Prevention Program; and

7 “(H) any other terrorism prevention activ-
8 ity authorized by the Administrator.

9 “(b) OFFICE FOR THE PREVENTION OF TER-
10 RORISM.—

11 “(1) ESTABLISHMENT.—There is established in
12 the Department an Office for the Prevention of Ter-
13 rorism, which shall be headed by a Director.

14 “(2) DIRECTOR.—

15 “(A) REPORTING.—The Director of the
16 Office for the Prevention of Terrorism shall re-
17 port directly to the Secretary.

18 “(B) QUALIFICATIONS.—The Director of
19 the Office for the Prevention of Terrorism shall
20 have an appropriate background with experi-
21 ence in law enforcement, intelligence, or other
22 antiterrorist functions.

23 “(3) ASSIGNMENT OF PERSONNEL.—

24 “(A) IN GENERAL.—The Secretary shall
25 assign to the Office for the Prevention of Ter-

1 rorism permanent staff and other appropriate
2 personnel detailed from other components of
3 the Department to carry out the responsibilities
4 under this section.

5 “(B) LIAISONS.—The Secretary shall des-
6 ignate senior employees from each component
7 of the Department that has significant
8 antiterrorism responsibilities to act as liaisons
9 between that component and the Office for the
10 Prevention of Terrorism.

11 “(4) RESPONSIBILITIES.—The Director of the
12 Office for the Prevention of Terrorism shall—

13 “(A) coordinate policy and operations be-
14 tween the Department and State, local, and
15 tribal government agencies relating to pre-
16 venting acts of terrorism within the United
17 States;

18 “(B) serve as a liaison between State,
19 local, and tribal law enforcement agencies and
20 the Department;

21 “(C) in coordination with the Office of In-
22 telligence and Analysis, develop better methods
23 for the sharing of intelligence with State, local,
24 and tribal law enforcement agencies;

1 “(D) work with the Administrator to en-
2 sure that homeland security grants to State,
3 local, and tribal government agencies, including
4 grants under this title, the Commercial Equip-
5 ment Direct Assistance Program, and grants to
6 support fusion centers and other law enforce-
7 ment-oriented programs are adequately focused
8 on terrorism prevention activities; and

9 “(E) coordinate with the Federal Emer-
10 gency Management Agency, the Department of
11 Justice, the National Institute of Justice, law
12 enforcement organizations, and other appro-
13 priate entities to support the development, pro-
14 mulgation and updating, as necessary, of na-
15 tional voluntary consensus standards for train-
16 ing and personal protective equipment to be
17 used in a tactical environment by law enforce-
18 ment officers.

19 “(5) PILOT PROJECT.—

20 “(A) IN GENERAL.—The Director of the
21 Office for the Prevention of Terrorism, in co-
22 ordination with the Administrator, shall estab-
23 lish a pilot project to determine the efficacy and
24 feasibility of establishing law enforcement de-
25 ployment teams.

1 “(B) FUNCTION.—The law enforcement
2 deployment teams participating in the pilot pro-
3 gram under this subsection shall form the basis
4 of a national network of standardized law en-
5 forcement resources to assist State, local, and
6 tribal governments in responding to natural dis-
7 asters, acts of terrorism, or other man-made
8 disaster.

9 “(6) CONSTRUCTION.—Nothing in this section
10 may be construed to affect the roles or responsibil-
11 ities of the Department of Justice.

12 **“SEC. 2007. RESTRICTIONS ON USE OF FUNDS.**

13 “(a) LIMITATIONS ON USE.—

14 “(1) CONSTRUCTION.—

15 “(A) IN GENERAL.—Grants awarded under
16 this title may not be used to acquire land or to
17 construct buildings or other physical facilities.

18 “(B) EXCEPTIONS.—

19 “(i) IN GENERAL.—Notwithstanding
20 subparagraph (A), nothing in this para-
21 graph shall prohibit the use of grants
22 awarded under this title to achieve target
23 capabilities through—

24 “(I) the construction of facilities
25 described in section 611 of the Robert

1 T. Stafford Disaster Relief and Emer-
2 gency Assistance Act (42 U.S.C.
3 5196); or

4 “(II) the alteration or remodeling
5 of existing buildings for the purpose
6 of making such buildings secure
7 against terrorist attacks or able to
8 withstand or protect against chemical,
9 radiological, or biological attacks.

10 “(ii) REQUIREMENTS FOR EXCEP-
11 TION.—No grant awards may be used for
12 the purposes under clause (i) unless—

13 “(I) specifically approved by the
14 Administrator;

15 “(II) the construction occurs
16 under terms and conditions consistent
17 with the requirements under section
18 611(j)(8) of the Robert T. Stafford
19 Disaster Relief and Emergency Assist-
20 ance Act (42 U.S.C. 512(j)(8)); and

21 “(III) the amount allocated for
22 purposes under clause (i) does not ex-
23 ceed 20 percent of the grant award.

24 “(2) PERSONNEL.—

1 “(A) IN GENERAL.—For any grant award-
2 ed under section 2003 or 2004—

3 “(i) not more than 25 percent of the
4 amount awarded to a grant recipient may
5 be used to pay overtime and backfill costs;
6 and

7 “(ii) not more than 25 percent of the
8 amount awarded to the grant recipient
9 may be used to pay personnel costs not de-
10 scribed in clause (i).

11 “(B) WAIVER.—At the request of the re-
12 cipient of a grant under section 2003 or section
13 2004, the Administrator may grant a waiver of
14 any limitation under subparagraph (A).

15 “(b) MULTIPLE-PURPOSE FUNDS.—Nothing in this
16 title shall be construed to prohibit State, local, or tribal
17 governments from using grant funds under sections 2003
18 and 2004 in a manner that enhances preparedness for dis-
19 asters unrelated to acts of terrorism, if such use assists
20 such governments in achieving capabilities for terrorism
21 preparedness established by the Administrator.

22 “(c) EQUIPMENT STANDARDS.—If an applicant for
23 a grant under this title proposes to upgrade or purchase,
24 with assistance provided under that grant, new equipment
25 or systems that do not meet or exceed any applicable na-

1 tional voluntary consensus standards developed under sec-
2 tion 647 of the Post-Katrina Emergency Management Re-
3 form Act of 2006 (6 U.S.C. 747), the applicant shall in-
4 clude in its application an explanation of why such equip-
5 ment or systems will serve the needs of the applicant bet-
6 ter than equipment or systems that meet or exceed such
7 standards.

8 “(d) SUPPLEMENT NOT SUPPLANT.—Amounts ap-
9 propriated for grants under this title shall be used to sup-
10 plement and not supplant other State, local, and tribal
11 government public funds obligated for the purposes pro-
12 vided under this title.

13 **“SEC. 2008. ADMINISTRATION AND COORDINATION.**

14 “(a) ADMINISTRATOR.—The Administrator shall, in
15 consultation with other appropriate offices within the De-
16 partment, have responsibility for administering all home-
17 land security grant programs administered by the Depart-
18 ment and for ensuring coordination among those pro-
19 grams and consistency in the guidance issued to recipients
20 across those programs.

21 “(b) NATIONAL ADVISORY COUNCIL.—To ensure
22 input from and coordination with State, local, and tribal
23 governments and emergency response providers, the Ad-
24 ministrator shall regularly consult and work with the Na-
25 tional Advisory Council established under section 508 on

1 the administration and assessment of grant programs ad-
2 ministered by the Department, including with respect to
3 the development of program guidance and the development
4 and evaluation of risk-assessment methodologies.

5 “(c) REGIONAL COORDINATION.—The Administrator
6 shall ensure that—

7 “(1) all recipients of homeland security grants
8 administered by the Department, as a condition of
9 receiving those grants, coordinate their prevention,
10 preparedness, and protection efforts with neigh-
11 boring State, local, and tribal governments, as ap-
12 propriate; and

13 “(2) all metropolitan areas and other recipients
14 of homeland security grants administered by the De-
15 partment that include or substantially affect parts or
16 all of more than 1 State, coordinate across State
17 boundaries, including, where appropriate, through
18 the use of regional working groups and requirements
19 for regional plans, as a condition of receiving De-
20 partmentally administered homeland security grants.

21 “(d) PLANNING COMMITTEES.—

22 “(1) IN GENERAL.—Any State or metropolitan
23 area receiving grants under this title shall establish
24 a planning committee to assist in preparation and
25 revision of the State, regional, or local homeland se-

1 security plan and to assist in determining effective
2 funding priorities.

3 “(2) COMPOSITION.—

4 “(A) IN GENERAL.—The planning com-
5 mittee shall include representatives of signifi-
6 cant stakeholders, including—

7 “(i) local and tribal government offi-
8 cials; and

9 “(ii) emergency response providers,
10 which shall include representatives of the
11 fire service, law enforcement, emergency
12 medical response, and emergency man-
13 agers.

14 “(B) GEOGRAPHIC REPRESENTATION.—
15 The members of the planning committee shall
16 be a representative group of individuals from
17 the counties, cities, towns, and Indian tribes
18 within the State or metropolitan areas, includ-
19 ing, as appropriate, representatives of rural,
20 high-population, and high-threat jurisdictions.

21 “(e) INTERAGENCY COORDINATION.—The Secretary,
22 through the Administrator, in coordination with the Attor-
23 ney General, the Secretary of Health and Human Services,
24 and other agencies providing assistance to State, local,
25 and tribal governments for preventing, preparing for, pro-

1 tecting against, responding to, and recovering from nat-
2 ural disasters, acts of terrorism, and other man-made dis-
3 asters, and not later than 12 months after the date of
4 enactment of the Improving America's Security Act of
5 2007, shall—

6 “(1) compile a comprehensive list of Federal
7 programs that provide assistance to State, local, and
8 tribal governments for preventing, preparing for,
9 and responding to, natural disasters, acts of ter-
10 rorism, and other man-made disasters;

11 “(2) develop a proposal to coordinate, to the
12 greatest extent practicable, the planning, reporting,
13 application, and other requirements and guidance
14 for homeland security assistance programs to—

15 “(A) eliminate redundant and duplicative
16 requirements, including onerous application and
17 ongoing reporting requirements;

18 “(B) ensure accountability of the programs
19 to the intended purposes of such programs;

20 “(C) coordinate allocation of grant funds
21 to avoid duplicative or inconsistent purchases
22 by the recipients; and

23 “(D) make the programs more accessible
24 and user friendly to applicants; and

1 “(3) submit the information and proposals
2 under paragraphs (1) and (2) to the Committee on
3 Homeland Security and Governmental Affairs of the
4 Senate and the Committee on Homeland Security of
5 the House of Representatives.

6 **“SEC. 2009. ACCOUNTABILITY.**

7 “(a) REPORTS TO CONGRESS.—

8 “(1) FUNDING EFFICACY.—The Administrator
9 shall submit to Congress, as a component of the an-
10 nual Federal Preparedness Report required under
11 section 652 of the Post-Katrina Emergency Manage-
12 ment Reform Act of 2006 (6 U.S.C. 752), an eval-
13 uation of the extent to which grants Administered by
14 the Department, including the grants established by
15 this title—

16 “(A) have contributed to the progress of
17 State, local, and tribal governments in achieving
18 target capabilities; and

19 “(B) have led to the reduction of risk na-
20 tionally and in State, local, and tribal jurisdic-
21 tions.

22 “(2) RISK ASSESSMENT.—

23 “(A) IN GENERAL.—For each fiscal year,
24 the Administrator shall provide to the Com-
25 mittee on Homeland Security and Govern-

1 mental Affairs of the Senate and the Committee
2 on Homeland Security of the House of Rep-
3 resentatives a detailed and comprehensive ex-
4 planation of the methodology used to calculate
5 risk and compute the allocation of funds under
6 sections 2003 and 2004 of this title, includ-
7 ing—

8 “(i) all variables included in the risk
9 assessment and the weights assigned to
10 each;

11 “(ii) an explanation of how each such
12 variable, as weighted, correlates to risk,
13 and the basis for concluding there is such
14 a correlation; and

15 “(iii) any change in the methodology
16 from the previous fiscal year, including
17 changes in variables considered, weighting
18 of those variables, and computational
19 methods.

20 “(B) CLASSIFIED ANNEX.—The informa-
21 tion required under subparagraph (A) shall be
22 provided in unclassified form to the greatest ex-
23 tent possible, and may include a classified
24 annex if necessary.

1 “(C) DEADLINE.—For each fiscal year, the
2 information required under subparagraph (A)
3 shall be provided on the earlier of—

4 “(i) October 31; or

5 “(ii) 30 days before the issuance of
6 any program guidance for grants under
7 sections 2003 and 2004.

8 “(b) REVIEWS AND AUDITS.—

9 “(1) DEPARTMENT REVIEW.—The Adminis-
10 trator shall conduct periodic reviews of grants made
11 under this title to ensure that recipients allocate
12 funds consistent with the guidelines established by
13 the Department.

14 “(2) GOVERNMENT ACCOUNTABILITY OFFICE.—

15 “(A) ACCESS TO INFORMATION.—Each re-
16 cipient of a grant under this section and the
17 Department shall provide the Government Ac-
18 countability Office with full access to informa-
19 tion regarding the activities carried out under
20 this title.

21 “(B) AUDITS AND REPORTS.—

22 “(i) AUDIT.—Not later than 12
23 months after the date of enactment of the
24 Improving America’s Security Act of 2007,
25 and periodically thereafter, the Comptroller

1 General of the United States shall conduct
2 an audit of the Homeland Security Grant
3 Program.

4 “(ii) REPORT.—The Comptroller Gen-
5 eral of the United States shall submit a re-
6 port to the Committee on Homeland Secu-
7 rity and Governmental Affairs of the Sen-
8 ate and the Committee on Homeland Secu-
9 rity of the House of Representatives on—

10 “(I) the results of any audit con-
11 ducted under clause (i), including an
12 analysis of the purposes for which the
13 grant funds authorized under this title
14 are being spent; and

15 “(II) whether the grant recipi-
16 ents have allocated funding consistent
17 with the State homeland security plan
18 and the guidelines established by the
19 Department.

20 “(3) AUDIT REQUIREMENT.—Grant recipients
21 that expend \$500,000 or more in grant funds re-
22 ceived under this title during any fiscal year shall
23 submit to the Administrator an organization-wide fi-
24 nancial and compliance audit report in conformance

1 with the requirements of chapter 75 of title 31,
2 United States Code.

3 “(c) REMEDIES FOR NONCOMPLIANCE.—

4 “(1) IN GENERAL.—If the Administrator finds,
5 after reasonable notice and an opportunity for a
6 hearing, that a recipient of a grant under this title
7 has failed to substantially comply with any provision
8 of this title, or with any regulations or guidelines of
9 the Department regarding eligible expenditures, the
10 Administrator shall—

11 “(A) terminate any payment of grant
12 funds to be made to the recipient under this
13 title;

14 “(B) reduce the amount of payment of
15 grant funds to the recipient by an amount equal
16 to the amount of grants funds that were not ex-
17 pended by the recipient in accordance with this
18 title; or

19 “(C) limit the use of grant funds received
20 under this title to programs, projects, or activi-
21 ties not affected by the failure to comply.

22 “(2) DURATION OF PENALTY.—The Adminis-
23 trator shall apply an appropriate penalty under
24 paragraph (1) until such time as the Secretary de-
25 termines that the grant recipient is in full compli-

1 ance with this title or with applicable guidelines or
2 regulations of the Department.

3 “(3) DIRECT FUNDING.—If a State fails to sub-
4 stantially comply with any provision of this title or
5 with applicable guidelines or regulations of the De-
6 partment, including failing to provide local or tribal
7 governments with grant funds or resources pur-
8 chased with grant funds in a timely fashion, a local
9 or tribal government entitled to receive such grant
10 funds or resources may petition the Administrator,
11 at such time and in such manner as determined by
12 the Administrator, to request that grant funds or re-
13 sources be provided directly to the local or tribal
14 government.

15 **“SEC. 2010. AUTHORIZATION OF APPROPRIATIONS.**

16 “(a) GRANTS.—

17 “(1) IN GENERAL.—There is authorized to be
18 appropriated for the Homeland Security Grant Pro-
19 gram established under section 2002 of this title for
20 each of fiscal years 2008, 2009, and 2010,
21 \$3,105,000,000, to be allocated as follows:

22 “(A) For grants under the Urban Area Se-
23 curity Initiative under section 2003,
24 \$1,278,639,000.

1 “(B) For grants under the State Home-
2 land Security Grant Program established under
3 section 2004, \$913,180,500.

4 “(C) For grants under the Emergency
5 Management Performance Grant Program es-
6 tablished under section 2005, \$913,180,500.

7 “(2) SUBSEQUENT YEARS.—There is authorized
8 to be appropriated for the Homeland Security Grant
9 Program established under section 2002 of this title
10 such sums as are necessary for fiscal year 2011 and
11 each fiscal year thereafter.

12 “(b) PROPORTIONATE ALLOCATION.—Regardless of
13 the amount appropriated for the Homeland Security
14 Grant Program in any fiscal year, the appropriated
15 amount shall, in each fiscal year, be allocated among the
16 grant programs under sections 2003, 2004, and 2005 in
17 direct proportion to the amounts allocated under para-
18 graph (a)(1) of this section.”.

19 **SEC. 203. TECHNICAL AND CONFORMING AMENDMENTS.**

20 (a) IN GENERAL.—The Homeland Security Act of
21 2002 (6 U.S.C. 101 et seq.) is amended—

22 (1) by redesignating title XVIII, as added by
23 the SAFE Port Act (Public Law 109–347; 120 Stat.
24 1884), as title XIX;

1 (2) by redesignating sections 1801 through
2 1806, as added by the SAFE Port Act (Public Law
3 109–347; 120 Stat. 1884), as sections 1901 through
4 1906, respectively;

5 (3) in section 1904(a), as so redesignated, by
6 striking “section 1802” and inserting “section
7 1902”; and

8 (4) in section 1906, as so redesignated, by
9 striking “section 1802(a)” each place that term ap-
10 pears and inserting “section 1902(a)”.

11 (b) TABLE OF CONTENTS.—The table of contents in
12 section 1(b) of the Homeland Security Act of 2002 (6
13 U.S.C. 101 note) is amended by striking the items relating
14 to title XVIII and sections 1801 through 1806, as added
15 by the SAFE Port Act (Public Law 109–347; 120 Stat.
16 1884), and inserting the following:

“TITLE XIX—DOMESTIC NUCLEAR DETECTION OFFICE

“Sec. 1901. Domestic Nuclear Detection Office.

“Sec. 1902. Mission of Office.

“Sec. 1903. Hiring authority.

“Sec. 1904. Testing authority.

“Sec. 1905. Relationship to other Department entities and Federal agencies.

“Sec. 1906. Contracting and grant making authorities.

“TITLE XX—HOMELAND SECURITY GRANTS

“Sec. 2001. Definitions.

“Sec. 2002. Homeland Security Grant Program.

“Sec. 2003. Urban Area Security Initiative.

“Sec. 2004. State Homeland Security Grant Program.

“Sec. 2005. Emergency Management Performance Grants Program.

“Sec. 2006. Terrorism prevention.

“Sec. 2007. Restrictions on use of funds.

“Sec. 2008. Administration and coordination.

“Sec. 2009. Accountability.

“Sec. 2010. Authorization of appropriations.”.

1 **TITLE III—COMMUNICATIONS**
2 **OPERABILITY AND INTER-**
3 **OPERABILITY**

4 **SEC. 301. DEDICATED FUNDING TO ACHIEVE EMERGENCY**
5 **COMMUNICATIONS OPERABILITY AND INTER-**
6 **OPERABLE COMMUNICATIONS.**

7 (a) EMERGENCY COMMUNICATIONS OPERABILITY
8 AND INTEROPERABLE COMMUNICATIONS.—

9 (1) IN GENERAL.—Title XVIII of the Home-
10 land Security Act of 2002 (6 U.S.C. 571 et seq.)
11 (relating to emergency communications) is amended
12 by adding at the end the following:

13 **“SEC. 1809. EMERGENCY COMMUNICATIONS OPERABILITY**
14 **AND INTEROPERABLE COMMUNICATIONS**
15 **GRANTS.**

16 “(a) DEFINITIONS.—In this section:

17 “(1) ADMINISTRATOR.—The term ‘Adminis-
18 trator’ means the Administrator of the Federal
19 Emergency Management Agency.

20 “(2) EMERGENCY COMMUNICATIONS OPER-
21 ABILITY.—The term ‘emergency communications
22 operability’ means the ability to provide and main-
23 tain, throughout an emergency response operation, a
24 continuous flow of information among emergency re-
25 sponse providers, agencies, and government officers

1 from multiple disciplines and jurisdictions and at all
2 levels of government, in the event of a natural dis-
3 aster, act of terrorism, or other man-made disaster,
4 including where there has been significant damage
5 to, or destruction of, critical infrastructure, includ-
6 ing substantial loss of ordinary telecommunications
7 infrastructure and sustained loss of electricity.

8 “(b) IN GENERAL.—The Administrator shall make
9 grants to States for initiatives necessary to achieve, main-
10 tain, or enhance Statewide, regional, national and, as ap-
11 propriate, international emergency communications oper-
12 ability and interoperable communications.

13 “(c) STATEWIDE INTEROPERABLE COMMUNICATIONS
14 PLANS.—

15 “(1) SUBMISSION OF PLANS.—The Adminis-
16 trator shall require any State applying for a grant
17 under this section to submit a Statewide Interoper-
18 able Communications Plan as described under sec-
19 tion 7303(f) of the Intelligence Reform and Ter-
20 rorism Prevention Act of 2004 (6 U.S.C. 194(f)).

21 “(2) COORDINATION AND CONSULTATION.—The
22 Statewide plan submitted under paragraph (1) shall
23 be developed—

1 “(A) in coordination with local and tribal
2 governments, emergency response providers,
3 and other relevant State officers; and

4 “(B) in consultation with and subject to
5 appropriate comment by the applicable Regional
6 Emergency Communications Coordination
7 Working Group as described under section
8 1805.

9 “(3) APPROVAL.—The Administrator may not
10 award a grant to a State unless the Administrator,
11 in consultation with the Director for Emergency
12 Communications, has approved the applicable State-
13 wide plan.

14 “(4) REVISIONS.—A State may revise the appli-
15 cable Statewide plan approved by the Administrator
16 under this subsection, subject to approval of the re-
17 vision by the Administrator.

18 “(d) CONSISTENCY.—The Administrator shall ensure
19 that each grant is used to supplement and support, in a
20 consistent and coordinated manner, any applicable State,
21 regional, or urban area homeland security plan.

22 “(e) USE OF GRANT FUNDS.—Grants awarded under
23 subsection (b) may be used for initiatives to achieve, main-
24 tain, or enhance emergency communications operability
25 and interoperable communications, including—

1 “(1) Statewide or regional communications
2 planning, including governance related activities;

3 “(2) system design and engineering;

4 “(3) system procurement and installation;

5 “(4) exercises;

6 “(5) modeling and simulation exercises for
7 operational command and control functions;

8 “(6) technical assistance;

9 “(7) training; and

10 “(8) other appropriate activities determined by
11 the Administrator to be integral to achieve, main-
12 tain, or enhance emergency communications oper-
13 ability and interoperable communications.

14 “(f) APPLICATION.—

15 “(1) IN GENERAL.—A State desiring a grant
16 under this section shall submit an application at
17 such time, in such manner, and accompanied by
18 such information as the Administrator may reason-
19 ably require.

20 “(2) MINIMUM CONTENTS.—At a minimum,
21 each application submitted under paragraph (1)
22 shall—

23 “(A) identify the critical aspects of the
24 communications life cycle, including planning,
25 system design and engineering, procurement

1 and installation, and training for which funding
2 is requested;

3 “(B) describe how—

4 “(i) the proposed use of funds—

5 “(I) would be consistent with and
6 address the goals in any applicable
7 State, regional, or urban homeland se-
8 curity plan; and

9 “(II) unless the Administrator
10 determines otherwise, are—

11 “(aa) consistent with the
12 National Emergency Communica-
13 tions Plan under section 1802;
14 and

15 “(bb) compatible with the
16 national infrastructure and na-
17 tional voluntary consensus stand-
18 ards;

19 “(ii) the applicant intends to spend
20 funds under the grant, to administer such
21 funds, and to allocate such funds among
22 participating local and tribal governments
23 and emergency response providers;

24 “(iii) the State plans to allocate the
25 grant funds on the basis of risk and effec-

1 tiveness to regions, local and tribal govern-
2 ments to promote meaningful investments
3 for achieving, maintaining, or enhancing
4 emergency communications operability and
5 interoperable communications;

6 “(iv) the State intends to address the
7 emergency communications operability and
8 interoperable communications needs at the
9 city, county, regional, State, and interstate
10 level; and

11 “(v) the State plans to emphasize re-
12 gional planning and cooperation, both
13 within the jurisdictional borders of that
14 State and with neighboring States;

15 “(C) be consistent with the Statewide
16 Interoperable Communications Plan required
17 under section 7303(f) of the Intelligence Re-
18 form and Terrorism Prevention Act of 2004 (6
19 U.S.C. 194(f)); and

20 “(D) include a capital budget and timeline
21 showing how the State intends to allocate and
22 expend the grant funds.

23 “(g) AWARD OF GRANTS.—

1 “(1) CONSIDERATIONS.—In approving applica-
2 tions and awarding grants under this section, the
3 Administrator shall consider—

4 “(A) the nature of the threat to the State
5 from a natural disaster, act of terrorism, or
6 other man-made disaster;

7 “(B) the location, risk, or vulnerability of
8 critical infrastructure and key national assets,
9 including the consequences from damage to
10 critical infrastructure in nearby jurisdictions as
11 a result of natural disasters, acts of terrorism,
12 or other man-made disasters;

13 “(C) the size of the population of the
14 State, including appropriate consideration of
15 military, tourist, and commuter populations;

16 “(D) the population density of the State;

17 “(E) the extent to which grants will be uti-
18 lized to implement emergency communications
19 operability and interoperable communications
20 solutions—

21 “(i) consistent with the National
22 Emergency Communications Plan under
23 section 1802 and compatible with the na-
24 tional infrastructure and national vol-
25 untary consensus standards; and

1 “(ii) more efficient and cost effective
2 than current approaches;

3 “(F) the extent to which a grant would ex-
4 pedite the achievement, maintenance, or en-
5 hancement of emergency communications oper-
6 ability and interoperable communications in the
7 State with Federal, State, local, and tribal gov-
8 ernments;

9 “(G) the extent to which a State, given its
10 financial capability, demonstrates its commit-
11 ment to achieve, maintain, or enhance emer-
12 gency communications operability and inter-
13 operable communications by supplementing
14 Federal funds with non-Federal funds;

15 “(H) whether the State is on or near an
16 international border;

17 “(I) whether the State encompasses an
18 economically significant border crossing;

19 “(J) whether the State has a coastline bor-
20 dering an ocean or international waters;

21 “(K) the extent to which geographic bar-
22 riers pose unusual obstacles to achieving, main-
23 taining, or enhancing emergency communica-
24 tions operability or interoperable communica-
25 tions;

1 “(L) the threats, vulnerabilities, and con-
2 sequences faced by the State related to at-risk
3 sites or activities in nearby jurisdictions, includ-
4 ing the need to respond to natural disasters,
5 acts of terrorism, and other man-made disasters
6 arising in those jurisdictions;

7 “(M) the need to achieve, maintain, or en-
8 hance nationwide emergency communications
9 operability and interoperable communications,
10 consistent with the National Emergency Com-
11 munications Plan under section 1802;

12 “(N) whether the activity for which a
13 grant is requested is being funded under an-
14 other Federal or State emergency communica-
15 tions grant program; and

16 “(O) such other factors as are specified by
17 the Administrator in writing.

18 “(2) REVIEW PANEL.—

19 “(A) IN GENERAL.—The Secretary shall
20 establish a review panel under section 871(a) to
21 assist in reviewing grant applications under this
22 section.

23 “(B) RECOMMENDATIONS.—The review
24 panel established under subparagraph (A) shall
25 make recommendations to the Administrator re-

1 garding applications for grants under this sec-
2 tion.

3 “(C) MEMBERSHIP.—The review panel es-
4 tablished under subparagraph (A) shall in-
5 clude—

6 “(i) individuals with technical exper-
7 tise in emergency communications oper-
8 ability and interoperable communications;

9 “(ii) emergency response providers;
10 and

11 “(iii) other relevant State and local
12 officers.

13 “(3) MINIMUM GRANT AMOUNTS.—The Admin-
14 istrator shall ensure that for each fiscal year—

15 “(A) no State receives less than an amount
16 equal to 0.75 percent of the total funds appro-
17 priated for grants under this section; and

18 “(B) American Samoa, the Commonwealth
19 of the Northern Mariana Islands, Guam, and
20 the Virgin Islands each receive no less than
21 0.25 percent of the amounts appropriated for
22 grants under this section.

23 “(4) AVAILABILITY OF FUNDS.—Any grant
24 funds awarded that may be used to support emer-
25 gency communications operability or interoperable

1 communications shall, as the Administrator may de-
2 termine, remain available for up to 3 years, con-
3 sistent with section 7303(e) of the Intelligence Re-
4 form and Terrorism Prevention Act of 2004 (6
5 U.S.C. 194(e)).

6 “(h) STATE RESPONSIBILITIES.—

7 “(1) PASS-THROUGH OF FUNDS TO LOCAL AND
8 TRIBAL GOVERNMENTS.—The Administrator shall
9 determine a date by which a State that receives a
10 grant shall obligate or otherwise make available to
11 local and tribal governments and emergency re-
12 sponse providers—

13 “(A) not less than 80 percent of the funds
14 of the amount of the grant;

15 “(B) resources purchased with the grant
16 funds having a value equal to not less than 80
17 percent of the total amount of the grant; or

18 “(C) grant funds combined with resources
19 purchased with the grant funds having a value
20 equal to not less than 80 percent of the total
21 amount of the grant.

22 “(2) CERTIFICATIONS REGARDING DISTRIBUTION OF GRANT FUNDS TO LOCAL AND TRIBAL GOVERNMENTS.—Any State that receives a grant shall
23 certify to the Administrator, by not later than 30
24
25

1 days after the date described under paragraph (1)
2 with respect to the grant, that the State has made
3 available for expenditure by local or tribal govern-
4 ments and emergency response providers the re-
5 quired amount of grant funds under paragraph (1).

6 “(3) REPORT ON GRANT SPENDING.—

7 “(A) IN GENERAL.—Any State that re-
8 ceives a grant shall submit a spending report to
9 the Administrator at such time, in such man-
10 ner, and accompanied by such information as
11 the Administrator may reasonably require.

12 “(B) MINIMUM CONTENTS.—At a min-
13 imum, each report under this paragraph shall
14 include—

15 “(i) the amount, ultimate recipients,
16 and dates of receipt of all funds received
17 under the grant;

18 “(ii) the amount and the dates of dis-
19 bursements of all such funds expended in
20 compliance with paragraph (1) or under
21 mutual aid agreements or other intrastate
22 and interstate sharing arrangements, as
23 applicable;

24 “(iii) how the funds were used by each
25 ultimate recipient or beneficiary;

1 “(iv) the extent to which emergency
2 communications operability and interoper-
3 able communications identified in the ap-
4 plicable Statewide plan and application
5 have been achieved, maintained, or en-
6 hanced as the result of the expenditure of
7 grant funds; and

8 “(v) the extent to which emergency
9 communications operability and interoper-
10 able communications identified in the ap-
11 plicable Statewide plan and application re-
12 main unmet.

13 “(4) PENALTIES FOR REPORTING DELAY.—If a
14 State fails to provide the information required by
15 the Administrator under paragraph (3), the Admin-
16 istrator may—

17 “(A) reduce grant payments to the State
18 from the portion of grant funds that are not re-
19 quired to be passed through under paragraph
20 (1);

21 “(B) terminate payment of funds under
22 the grant to the State, and transfer the appro-
23 priate portion of those funds directly to local
24 and tribal governments and emergency response

1 providers that were intended to receive funding
2 under that grant; or

3 “(C) impose additional restrictions or bur-
4 dens on the use of funds by the State under the
5 grant, which may include—

6 “(i) prohibiting use of such funds to
7 pay the grant-related expenses of the
8 State; or

9 “(ii) requiring the State to distribute
10 to local and tribal government and emer-
11 gency response providers all or a portion of
12 grant funds that are not required to be
13 passed through under paragraph (1).

14 “(i) AUTHORIZATION OF APPROPRIATIONS.—There
15 are authorized to be appropriated for grants under this
16 section—

17 “(1) \$400,000,000 for fiscal year 2008;

18 “(2) \$500,000,000 for fiscal year 2009;

19 “(3) \$600,000,000 for fiscal year 2010;

20 “(4) \$800,000,000 for fiscal year 2011;

21 “(5) \$1,000,000,000 for fiscal year 2012; and

22 “(6) such sums as necessary for each fiscal year
23 thereafter.”.

24 (2) TECHNICAL AND CONFORMING AMEND-
25 MENT.—The table of contents under section 1(b) of

1 the Homeland Security Act of 2002 (6 U.S.C. 101)
2 is amended by inserting after the item relating to
3 section 1808 the following:

“Sec. 1809. Emergency communications operability and interoperable communications grants.”

4 (b) INTEROPERABLE COMMUNICATIONS PLANS.—
5 Section 7303 of the Intelligence Reform and Terrorist
6 Prevention Act of 2004 (6 U.S.C. 194) is amended—

7 (1) in subsection (f)—

8 (A) in paragraph (4), by striking “and” at
9 the end;

10 (B) in paragraph (5), by striking the pe-
11 riod at the end and inserting a semicolon; and

12 (C) by adding at the end the following:

13 “(6) include information on the governance
14 structure used to develop the plan, such as all agen-
15 cies and organizations that participated in devel-
16 oping the plan and the scope and timeframe of the
17 plan; and

18 “(7) describe the method by which multi-juris-
19 dictional, multi-disciplinary input was provided from
20 all regions of the jurisdiction and the process for
21 continuing to incorporate such input.”; and

22 (2) in subsection (g)(1), by striking “or video”
23 and inserting “and video”.

1 (c) NATIONAL EMERGENCY COMMUNICATIONS
2 PLAN.—Section 1802(c) of the Homeland Security Act (6
3 U.S.C. 652(c)) is amended—

4 (1) in paragraph (8), by striking “and” at the
5 end;

6 (2) in paragraph (9), by striking the period at
7 the end and inserting a semicolon; and

8 (3) by adding at the end the following:

9 “(10) set a date, including interim benchmarks,
10 as appropriate, by which State, local, and tribal gov-
11 ernments, Federal departments and agencies, emer-
12 gency response providers, and the private sector will
13 achieve interoperable communications as that term
14 is defined under section 7303(g)(1) of the Intel-
15 ligence Reform and Terrorism Prevention Act of
16 2004 (6 U.S.C. 194(g)(1)).”.

17 **SEC. 302. BORDER INTEROPERABILITY DEMONSTRATION**
18 **PROJECT.**

19 (a) IN GENERAL.—

20 (1) ESTABLISHMENT.—There is established in
21 the Department an International Border Community
22 Interoperable Communications Demonstration
23 Project (referred to in this section as “demonstra-
24 tion project”).

1 (2) MINIMUM NUMBER OF COMMUNITIES.—The
2 Secretary shall select no fewer than 6 communities
3 to participate in a demonstration project.

4 (3) LOCATION OF COMMUNITIES.—No fewer
5 than 3 of the communities selected under paragraph
6 (2) shall be located on the northern border of the
7 United States and no fewer than 3 of the commu-
8 nities selected under paragraph (2) shall be located
9 on the southern border of the United States.

10 (b) PROGRAM REQUIREMENTS.—The demonstration
11 projects shall—

12 (1) address the interoperable communications
13 needs of emergency response providers and the Na-
14 tional Guard;

15 (2) foster interoperable emergency communica-
16 tions systems—

17 (A) among Federal, State, local, and tribal
18 government agencies in the United States in-
19 volved in preventing or responding to a natural
20 disaster, act of terrorism, or other man-made
21 disaster; and

22 (B) with similar agencies in Canada or
23 Mexico;

1 (3) identify common international cross-border
2 frequencies for communications equipment, including
3 radio or computer messaging equipment;

4 (4) foster the standardization of interoperable
5 emergency communications equipment;

6 (5) identify solutions that will facilitate inter-
7 operable communications across national borders ex-
8 peditiously;

9 (6) ensure that emergency response providers
10 can communicate with each other and the public at
11 disaster sites;

12 (7) provide training and equipment to enable
13 emergency response providers to deal with threats
14 and contingencies in a variety of environments; and

15 (8) identify and secure appropriate joint-use
16 equipment to ensure communications access.

17 (c) DISTRIBUTION OF FUNDS.—

18 (1) IN GENERAL.—The Secretary shall dis-
19 tribute funds under this section to each community
20 participating in a demonstration project through the
21 State, or States, in which each community is lo-
22 cated.

23 (2) OTHER PARTICIPANTS.—Not later than 60
24 days after receiving funds under paragraph (1), a
25 State shall make the funds available to the local and

1 tribal governments and emergency response pro-
2 viders selected by the Secretary to participate in a
3 demonstration project.

4 (d) REPORTING.—Not later than December 31, 2007,
5 and each year thereafter in which funds are appropriated
6 for a demonstration project, the Secretary shall submit to
7 the Committee on Homeland Security and Governmental
8 Affairs of the Senate and the Committee on Homeland
9 Security of the House of Representatives a report on the
10 demonstration projects.

11 (e) AUTHORIZATION OF APPROPRIATIONS.—There
12 are authorized to be appropriated such sums as are nec-
13 essary in each of fiscal years 2007, 2008, and 2009 to
14 carry out this section.

15 **TITLE IV—TERRORIST TRAVEL**

16 **SEC. 401. SECURITY ENHANCEMENTS TO THE VISA WAIVER** 17 **PROGRAM.**

18 (a) ELECTRONIC TRAVEL AUTHORIZATION SYS-
19 TEM.—

20 (1) REQUIREMENT TO PROVIDE INFORMA-
21 TION.—Section 217(a) of the Immigration and Na-
22 tionality Act (8 U.S.C. 1187(a)) is amended by in-
23 serting after paragraph (9) the following new para-
24 graph:

1 “(10) ELECTRONIC TRAVEL AUTHORIZATION
2 SYSTEM.—After the effective date set out in sub-
3 section (h)(3)(D), the alien has electronically pro-
4 vided information to the electronic travel authoriza-
5 tion system described in subsection (h)(3) and, upon
6 review of that information, the Secretary of Home-
7 land Security has determined that the alien is eligi-
8 ble to travel to the United States under the pro-
9 gram.”.

10 (2) AUTHORITY TO DEVELOP.—Section 217(h)
11 of the Immigration and Nationality Act (8 U.S.C.
12 1187(h)) is amended by adding at the end the fol-
13 lowing new paragraph:

14 “(3) ELECTRONIC TRAVEL AUTHORIZATION
15 SYSTEM.—

16 “(A) AUTHORITY TO DEVELOP.—The Sec-
17 retary of Homeland Security, in consultation
18 with the Secretary of State, is authorized to de-
19 velop and implement an electronic travel au-
20 thorization system to electronically collect the
21 information that the Secretary finds is nec-
22 essary to determine, in advance of travel, the
23 eligibility of an alien to travel to the United
24 States under the program.

1 “(B) FEES.—The Secretary of Homeland
2 Security is authorized to charge fees for the use
3 of the system authorized by subparagraph (A).
4 Such fees—

5 “(i) may be in an amount that enables
6 the Secretary to recover all the costs of
7 providing and administering such system;
8 and

9 “(ii) shall be available for expenditure
10 to pay for such costs and shall remain
11 available until expended.

12 “(C) VALIDITY.—

13 “(i) PERIOD OF VALIDITY.—A deter-
14 mination that an alien is eligible to travel
15 to the United States under the program
16 shall be valid for the period prescribed in
17 regulations by the Secretary of Homeland
18 Security, in consultation with the Sec-
19 retary of State.

20 “(ii) REVOCATION OF VALIDITY.—
21 Notwithstanding any other provision of
22 this section, the Secretary of Homeland
23 Security may for any reason (including na-
24 tional security) at any time rescind or re-
25 voke any such determination.

1 “(iii) RELATIONSHIP TO ADMISSI-
2 BILITY.—A determination that an alien is
3 eligible to travel to the United States
4 under the program is not a determination
5 that the alien is admissible to the United
6 States.

7 “(iv) PROHIBITION ON JUDICIAL RE-
8 VIEW.—Notwithstanding any other provi-
9 sion of law, no court shall have jurisdiction
10 to review a determination of whether an
11 alien is eligible to travel to the United
12 States under the program.

13 “(D) EFFECTIVE DATE.—The requirement
14 of subsection (a)(10) to provide information to
15 the system authorized by subparagraph (A)
16 shall become effective on the date determined
17 by the Secretary. Such date shall be not less
18 than 180 days after the date that the Secretary
19 publishes notice of the requirements of such
20 system in the Federal Register.”.

21 “(3) IMPROVING THE ACCURACY OF WATCH
22 LISTS.—In developing the electronic travel author-
23 ization system authorized by section 217(h)(3) of
24 the Immigration and Nationality Act, as added by
25 paragraph (2), the Secretary, in consultation with

1 the Secretary of State, shall study the feasibility of
2 using such system to improve the accuracy and reli-
3 ability of government watch lists and correct erro-
4 neous information included in such a list, by—

5 (A) sharing information with relevant
6 agencies regarding misidentifications caused by
7 inaccurate or incomplete watch list entries;

8 (B) establishing a redress system for indi-
9 viduals who believe they have been identified er-
10 roneously;

11 (C) instituting performance metrics to
12 track progress; and

13 (D) implementing other appropriate meas-
14 ures.

15 (4) REPORT.—

16 (A) REQUIREMENT.—Not later than 180
17 days prior to the date that the Secretary imple-
18 ments the electronic travel authorization system
19 authorized by section 217(h)(3) of the Immi-
20 gration and Nationality Act, as added by para-
21 graph (2), the Secretary shall submit to the ap-
22 propriate congressional committees a report on
23 such system.

24 (B) CONTENT.—The report required by
25 this paragraph shall include—

1 (i) a privacy impact assessment that
2 addresses—

3 (I) what information is to be col-
4 lected;

5 (II) why the information is being
6 collected;

7 (III) the intended use of the
8 agency of the information;

9 (IV) with whom the information
10 will be shared and the purposes for
11 which the information will be shared;

12 (V) how long the information will
13 be retained;

14 (VI) what notice or opportunities
15 for consent would be provided to indi-
16 viduals regarding what information is
17 collected and how that information is
18 shared;

19 (VII) how the information will be
20 secured; and

21 (VIII) whether a system of
22 records is being created under section
23 552a of title 5, United States Code,
24 (commonly referred to as the “Pri-
25 vacy Act”);

1 (ii) a description of the automated
2 processes, queries, and analyses the Sec-
3 retary will develop to determine, in ad-
4 vance of travel, the eligibility of an alien to
5 travel to the United States under the Visa
6 Waiver Program established under section
7 217 of the Immigration and Nationality
8 Act (8 U.S.C. 1187), including—

9 (I) whether the Secretary will
10 utilize algorithms or other analytic
11 tools to profile or otherwise assess
12 risks posed by aliens whose names are
13 not on any watchlists maintained by
14 the Federal Government;

15 (II) a description of any such al-
16 gorithm or analytic tool that will be
17 used;

18 (III) an assessment of the effi-
19 cacy, or likely efficacy, of any such al-
20 gorithm or analytic tool in providing
21 accurate information; and

22 (IV) a description of with whom
23 the results of any such algorithm or
24 analytic tool will be shared; and

25 (iii) a description of—

1 (I) the results of the study re-
2 quired by subsection (h)(3)(D) of such
3 section 217; and

4 (II) any elements of such elec-
5 tronic travel authorization system in-
6 tended to improve the accuracy and
7 reliability of government watchlists
8 and the process by which any erro-
9 neous information included in such a
10 list will be corrected.

11 (C) FORM OF REPORT.—The report re-
12 quired by this paragraph shall be submitted in
13 unclassified form and may include a classified
14 annex.

15 (D) APPROPRIATE CONGRESSIONAL COM-
16 MITTEES DEFINED.—In this paragraph, the
17 term “appropriate congressional committees”
18 means—

19 (i) the Committee on Homeland Secu-
20 rity and Governmental Affairs, the Com-
21 mittee on the Judiciary, the Select Com-
22 mittee on Intelligence, and the Committee
23 on Appropriations of the Senate; and

24 (ii) the Committee on Homeland Se-
25 curity, the Committee on the Judiciary, the

1 Permanent Select Committee on Intel-
2 ligence, and the Committee on Appropria-
3 tions of the House of Representatives.

4 (b) QUALIFICATIONS FOR PROGRAM COUNTRIES.—

5 (1) REPORTING OF THEFT OR LOSS OF PASS-
6 PORTS.—

7 (A) REPORTING REQUIREMENTS.—Section
8 217(c)(2)(D) of the Immigration and Nation-
9 ality Act (8 U.S.C. 1187(c)(2)(D)) is amended
10 to read as follows:

11 “(D) REPORTING THEFT OR LOSS OF
12 PASSPORTS.—The government of the country
13 enters into an agreement with the Government
14 of the United States to report, or make avail-
15 able, to the Government of the United States
16 information regarding the theft or loss of pass-
17 ports within a time limit and in a manner speci-
18 fied in the agreement.”.

19 (B) FAILURE TO REPORT THEFT OR LOSS
20 OF PASSPORTS.—Section 217(f)(5) of the Immi-
21 gration and Nationality Act (8 U.S.C.
22 1187(f)(5)) is amended to read as follows:

23 “(5) FAILURE TO REPORT THEFT OR LOSS OF
24 PASSPORTS.—If the Secretary of Homeland Security
25 and the Secretary of State jointly determine that the

1 program country is not reporting the theft or loss of
2 passports as required by the requirements estab-
3 lished pursuant to subsection (c)(2)(D), the Sec-
4 retary shall terminate the designation of the country
5 as a program country.”.

6 (2) PASSENGER INFORMATION EXCHANGE.—
7 Section 217(c)(2) of the Immigration and Nation-
8 ality Act is amended by adding at the end the fol-
9 lowing new paragraph:

10 “(E) PASSENGER INFORMATION EX-
11 CHANGE.—The government of the country en-
12 ters into an agreement with the Government of
13 the United States to share information regard-
14 ing whether nationals of that country traveling
15 to the United States represent a threat to the
16 security or welfare of the United States or its
17 citizens.”.

18 (3) EFFECTIVE DATE.—

19 (A) NEW PROGRAM COUNTRIES.—The
20 amendments made by paragraphs (1) and (2)
21 shall take effect, with respect to a country that
22 is designated as a program country under sec-
23 tion 217(c) of the Immigration and Nationality
24 Act (8 U.S.C. 1187(c)) after the date of enact-
25 ment of this Act, on such date of enactment.

1 (B) EXISTING PROGRAM COUNTRIES.—The
2 amendments made by paragraphs (1) and (2)
3 shall take effect, with respect to a country that
4 was designated as a program country under
5 such section 217(c) prior to, or on, the date of
6 enactment of this Act, on the date that is 24
7 months after such date of enactment. The pro-
8 visions of such section 217(c), as in effect on
9 the date immediately prior to such date of en-
10 actment, shall apply with respect to each such
11 country during the 24-month period beginning
12 on such date of enactment.

13 (c) AUTHORITY TO PROHIBIT PARTICIPATION IN THE
14 PROGRAM.—Subsection (d) of section 217 of the Immigra-
15 tion and Nationality Act (8 U.S.C. 1187) is amended—

16 (1) by striking “Attorney General” and insert-
17 ing “Secretary of Homeland Security”;

18 (2) in the heading, by striking “AUTHORITY”
19 and inserting “IN GENERAL”;

20 (3) by redesignating such subsection (d) as
21 paragraph (1);

22 (4) by indenting such paragraph, as so des-
23 ignated, 4 ems from the left margin;

24 (5) by inserting before such paragraph, as so
25 designated, the following:

1 “(d) AUTHORITY.—”; and

2 (6) by inserting after such paragraph, as so
3 designated, the following new paragraph:

4 “(2) CONSIDERATIONS.—In determining wheth-
5 er to refrain from waiving the visa requirements in
6 respect to nationals of any country or to rescind any
7 waiver or designation under paragraph (1), the Sec-
8 retary of Homeland Security shall consider whether
9 the government of the country has implemented the
10 following:

11 “(A) AIRPORT SECURITY.—Standards for
12 airport security, including standards for bag-
13 gage screening, that meet or exceed the stand-
14 ards for airport security established by the Sec-
15 retary of Homeland Security.

16 “(B) TRAVEL DOCUMENTS.—Standards for
17 passports or other travel documents issued by
18 the country that comply with any relevant
19 standards established by the Secretary of
20 Homeland Security.

21 “(C) ADDITIONAL SECURITY STAND-
22 ARDS.—Any additional security standards es-
23 tablished by the Secretary of Homeland Secu-
24 rity.”.

25 (d) TECHNICAL AND CONFORMING AMENDMENTS.—

1 (1) DESIGNATION OF PROGRAM COUNTRIES.—

2 Subsection (c)(6) of such section 217 is amended by
3 striking “Secretary’s”.

4 (2) USE OF INFORMATION TECHNOLOGY SYS-
5 TEMS.—Subsection (h) of such section 217 is
6 amended—

7 (A) in paragraph (2)(B)(i)(I), by striking
8 “Service” and inserting “Department of Home-
9 land Security”; and

10 (B) in paragraph (2)(B)(iii)(I), by striking
11 “Service”.

12 (3) AUTHORITY OF THE SECRETARY OF HOME-
13 LAND SECURITY.—Such section 217 is amended by
14 striking “Attorney General” each place it appears
15 and inserting “Secretary of Homeland Security”.

16 (e) AUTHORIZATION OF APPROPRIATIONS.—There
17 are authorized to be appropriated to the Secretary such
18 sums as may be necessary to carry out the provisions of
19 this section and the amendments made by this section.

20 **SEC. 402. STRENGTHENING THE CAPABILITIES OF THE**
21 **HUMAN SMUGGLING AND TRAFFICKING CEN-**
22 **TER.**

23 (a) IN GENERAL.—Section 7202 of the Intelligence
24 Reform and Terrorism Prevention Act of 2004 (8 U.S.C.
25 1777) is amended—

1 (1) in subsection (c)(1), by striking “address”
2 and inserting “integrate and disseminate intelligence
3 and information related to”;

4 (2) by redesignating subsections (d) and (e) as
5 subsections (g) and (h), respectively; and

6 (3) by inserting after subsection (c) the fol-
7 lowing new subsections:

8 “(d) DIRECTOR.—The Secretary of Homeland Secu-
9 rity shall nominate an official of the Government of the
10 United States to serve as the Director of the Center, in
11 accordance with the requirements of the memorandum of
12 understanding entitled the ‘Human Smuggling and Traf-
13 ficking Center (HSTC) Charter’.

14 “(e) STAFFING OF THE CENTER.—

15 “(1) IN GENERAL.—The Secretary of Homeland
16 Security, in cooperation with heads of other relevant
17 agencies and departments, shall ensure that the
18 Center is staffed with not fewer than 40 full-time
19 equivalent positions, including, as appropriate,
20 detailees from the following:

21 “(A) The Office of Intelligence and Anal-
22 ysis.

23 “(B) The Transportation Security Admin-
24 istration.

1 “(C) The United States Citizenship and
2 Immigration Services.

3 “(D) The United States Customs and Bor-
4 der Protection.

5 “(E) The United States Coast Guard.

6 “(F) The United States Immigration and
7 Customs Enforcement.

8 “(G) The Central Intelligence Agency.

9 “(H) The Department of Defense.

10 “(I) The Department of the Treasury.

11 “(J) The National Counterterrorism Cen-
12 ter.

13 “(K) The National Security Agency.

14 “(L) The Department of Justice.

15 “(M) The Department of State.

16 “(N) Any other relevant agency or depart-
17 ment.

18 “(2) EXPERTISE OF DETAILEES.—The Sec-
19 retary of Homeland Security, in cooperation with the
20 head of each agency, department, or other entity set
21 out under paragraph (1), shall ensure that the
22 detailees provided to the Center under paragraph (1)
23 include an adequate number of personnel with expe-
24 rience in the area of—

25 “(A) consular affairs;

1 “(B) counterterrorism;
2 “(C) criminal law enforcement;
3 “(D) intelligence analysis;
4 “(E) prevention and detection of document
5 fraud;
6 “(F) border inspection; or
7 “(G) immigration enforcement.

8 “(3) REIMBURSEMENT FOR DETAILEES.—To
9 the extent that funds are available for such purpose,
10 the Secretary of Homeland Security shall provide re-
11 imbursement to each agency or department that pro-
12 vides a detailee to the Center, in such amount or
13 proportion as is appropriate for costs associated with
14 the provision of such detailee, including costs for
15 travel by, and benefits provided to, such detailee.

16 “(f) ADMINISTRATIVE SUPPORT AND FUNDING.—
17 The Secretary of Homeland Security shall provide to the
18 Center the administrative support and funding required
19 for its maintenance, including funding for personnel, leas-
20 ing of office space, supplies, equipment, technology, train-
21 ing, and travel expenses necessary for the Center to carry
22 out its functions.”.

23 (b) REPORT.—Subsection (g) of section 7202 of the
24 Intelligence Reform and Terrorism Prevention Act of

1 2004 (8 U.S.C. 1777), as redesignated by subsection
2 (a)(2), is amended—

3 (1) in the heading, by striking “REPORT” and
4 inserting “INITIAL REPORT”;

5 (2) by redesignating such subsection (g) as
6 paragraph (1);

7 (3) by indenting such paragraph, as so des-
8 ignated, four ems from the left margin;

9 (4) by inserting before such paragraph, as so
10 designated, the following:

11 “(g) REPORT.—”; and

12 (5) by inserting after such paragraph, as so
13 designated, the following new paragraph:

14 “(2) FOLLOW-UP REPORT.—Not later than 180
15 days after the date of enactment of the Improving
16 America’s Security Act of 2007, the President shall
17 transmit to Congress a report regarding the oper-
18 ation of the Center and the activities carried out by
19 the Center, including a description of—

20 “(A) the roles and responsibilities of each
21 agency or department that is participating in
22 the Center;

23 “(B) the mechanisms used to share infor-
24 mation among each such agency or department;

1 “(C) the staff provided to the Center by
2 each such agency or department;

3 “(D) the type of information and reports
4 being disseminated by the Center; and

5 “(E) any efforts by the Center to create a
6 centralized Federal Government database to
7 store information related to illicit travel of for-
8 eign nationals, including a description of any
9 such database and of the manner in which in-
10 formation utilized in such a database would be
11 collected, stored, and shared.”.

12 (c) AUTHORIZATION OF APPROPRIATIONS.—There
13 are authorized to be appropriated to the Secretary to carry
14 out section 7202 of the Intelligence Reform and Terrorism
15 Prevention Act of 2004 (8 U.S.C. 1777), as amended by
16 this section, \$20,000,000 for fiscal year 2008.

17 **SEC. 403. ENHANCEMENTS TO THE TERRORIST TRAVEL**
18 **PROGRAM.**

19 Section 7215 of the Intelligence Reform and Ter-
20 rorism Prevention Act of 2004 (6 U.S.C. 123) is amended
21 to read as follows:

22 **“SEC. 7215. TERRORIST TRAVEL PROGRAM.**

23 “(a) REQUIREMENT TO ESTABLISH.—Not later than
24 90 days after the date of enactment of the Improving
25 America’s Security Act of 2007, the Secretary of Home-

1 land Security, in consultation with the Director of the Na-
2 tional Counterterrorism Center and consistent with the
3 strategy developed under section 7201, shall establish a
4 program to oversee the implementation of the Secretary's
5 responsibilities with respect to terrorist travel.

6 “(b) HEAD OF THE PROGRAM.—The Secretary of
7 Homeland Security shall designate an official of the De-
8 partment of Homeland Security to be responsible for car-
9 rying out the program. Such official shall be—

10 “(1) the Assistant Secretary for Policy of the
11 Department of Homeland Security; or

12 “(2) an official appointed by the Secretary who
13 reports directly to the Secretary.

14 “(c) DUTIES.—The official designated under sub-
15 section (b) shall assist the Secretary of Homeland Security
16 in improving the Department's ability to prevent terrorists
17 from entering the United States or remaining in the
18 United States undetected by—

19 “(1) developing relevant strategies and policies;

20 “(2) reviewing the effectiveness of existing pro-
21 grams and recommending improvements, if nec-
22 essary;

23 “(3) making recommendations on budget re-
24 quests and on the allocation of funding and per-
25 sonnel;

1 “(4) ensuring effective coordination, with re-
2 spect to policies, programs, planning, operations,
3 and dissemination of intelligence and information re-
4 lated to terrorist travel—

5 “(A) among appropriate subdivisions of the
6 Department of Homeland Security, as deter-
7 mined by the Secretary and including—

8 “(i) the United States Customs and
9 Border Protection;

10 “(ii) the United States Immigration
11 and Customs Enforcement;

12 “(iii) the United States Citizenship
13 and Immigration Services;

14 “(iv) the Transportation Security Ad-
15 ministration; and

16 “(v) the United States Coast Guard;
17 and

18 “(B) between the Department of Home-
19 land Security and other appropriate Federal
20 agencies; and

21 “(5) serving as the Secretary’s primary point of
22 contact with the National Counterterrorism Center
23 for implementing initiatives related to terrorist trav-
24 el and ensuring that the recommendations of the

1 Center related to terrorist travel are carried out by
2 the Department.

3 “(d) REPORT.—Not later than 180 days after the
4 date of enactment of the Improving America’s Security
5 Act of 2007, the Secretary of Homeland Security shall
6 submit to the Committee on Homeland Security and Gov-
7 ernmental Affairs of the Senate and the Committee on
8 Homeland Security of the House of Representatives a re-
9 port on the implementation of this section.”.

10 **TITLE V—PRIVACY AND CIVIL**
11 **LIBERTIES MATTERS**

12 **SEC. 501. MODIFICATION OF AUTHORITIES RELATING TO**
13 **PRIVACY AND CIVIL LIBERTIES OVERSIGHT**
14 **BOARD.**

15 (a) MODIFICATION OF AUTHORITIES.—Section 1061
16 of the National Security Intelligence Reform Act of 2004
17 (title I of Public Law 108–458; 5 U.S.C. 601 note) is
18 amended to read as follows:

19 **“SEC. 1061. PRIVACY AND CIVIL LIBERTIES OVERSIGHT**
20 **BOARD.**

21 “(a) IN GENERAL.—There is established within the
22 Executive Office of the President a Privacy and Civil Lib-
23 erties Oversight Board (referred to in this section as the
24 ‘Board’).

1 “(b) FINDINGS.—Consistent with the report of the
2 National Commission on Terrorist Attacks Upon the
3 United States, Congress makes the following findings:

4 “(1) In conducting the war on terrorism, the
5 Government may need additional powers and may
6 need to enhance the use of its existing powers.

7 “(2) This shift of power and authority to the
8 Government calls for an enhanced system of checks
9 and balances to protect the precious liberties that
10 are vital to our way of life and to ensure that the
11 Government uses its powers for the purposes for
12 which the powers were given.

13 “(c) PURPOSE.—The Board shall—

14 “(1) analyze and review actions the executive
15 branch takes to protect the Nation from terrorism,
16 ensuring that the need for such actions is balanced
17 with the need to protect privacy and civil liberties;
18 and

19 “(2) ensure that liberty concerns are appro-
20 priately considered in the development and imple-
21 mentation of laws, regulations, and policies related
22 to efforts to protect the Nation against terrorism.

23 “(d) FUNCTIONS.—

1 “(1) ADVICE AND COUNSEL ON POLICY DEVEL-
2 OPMENT AND IMPLEMENTATION.—The Board
3 shall—

4 “(A) review proposed legislation, regula-
5 tions, and policies related to efforts to protect
6 the Nation from terrorism, including the devel-
7 opment and adoption of information sharing
8 guidelines under subsections (d) and (f) of sec-
9 tion 1016;

10 “(B) review the implementation of new and
11 existing legislation, regulations, and policies re-
12 lated to efforts to protect the Nation from ter-
13 rorism, including the implementation of infor-
14 mation sharing guidelines under subsections (d)
15 and (f) of section 1016;

16 “(C) advise the President and the depart-
17 ments, agencies, and elements of the executive
18 branch to ensure that privacy and civil liberties
19 are appropriately considered in the development
20 and implementation of such legislation, regula-
21 tions, policies, and guidelines; and

22 “(D) in providing advice on proposals to
23 retain or enhance a particular governmental
24 power, consider whether the department, agen-

1 cy, or element of the executive branch has es-
2 tablished—

3 “(i) that the need for the power is
4 balanced with the need to protect privacy
5 and civil liberties;

6 “(ii) that there is adequate super-
7 vision of the use by the executive branch of
8 the power to ensure protection of privacy
9 and civil liberties; and

10 “(iii) that there are adequate guide-
11 lines and oversight to properly confine its
12 use.

13 “(2) OVERSIGHT.—The Board shall continually
14 review—

15 “(A) the regulations, policies, and proce-
16 dures, and the implementation of the regula-
17 tions, policies, and procedures, of the depart-
18 ments, agencies, and elements of the executive
19 branch to ensure that privacy and civil liberties
20 are protected;

21 “(B) the information sharing practices of
22 the departments, agencies, and elements of the
23 executive branch to determine whether they ap-
24 propriately protect privacy and civil liberties
25 and adhere to the information sharing guide-

1 lines issued or developed under subsections (d)
2 and (f) of section 1016 and to other governing
3 laws, regulations, and policies regarding privacy
4 and civil liberties; and

5 “(C) other actions by the executive branch
6 related to efforts to protect the Nation from
7 terrorism to determine whether such actions—

8 “(i) appropriately protect privacy and
9 civil liberties; and

10 “(ii) are consistent with governing
11 laws, regulations, and policies regarding
12 privacy and civil liberties.

13 “(3) RELATIONSHIP WITH PRIVACY AND CIVIL
14 LIBERTIES OFFICERS.—The Board shall—

15 “(A) review and assess reports and other
16 information from privacy officers and civil lib-
17 erties officers under section 1062;

18 “(B) when appropriate, make recommenda-
19 tions to such privacy officers and civil liberties
20 officers regarding their activities; and

21 “(C) when appropriate, coordinate the ac-
22 tivities of such privacy officers and civil liberties
23 officers on relevant interagency matters.

1 “(4) TESTIMONY.—The members of the Board
2 shall appear and testify before Congress upon re-
3 quest.

4 “(e) REPORTS.—

5 “(1) IN GENERAL.—The Board shall—

6 “(A) receive and review reports from pri-
7 vacy officers and civil liberties officers under
8 section 1062; and

9 “(B) periodically submit, not less than
10 semiannually, reports—

11 “(i)(I) to the appropriate committees
12 of Congress, including the Committees on
13 the Judiciary of the Senate and the House
14 of Representatives, the Committee on
15 Homeland Security and Governmental Af-
16 fairs of the Senate, the Committee on Gov-
17 ernment Reform of the House of Rep-
18 resentatives, the Select Committee on In-
19 telligence of the Senate, and the Perma-
20 nent Select Committee on Intelligence of
21 the House of Representatives; and

22 “(II) to the President; and

23 “(ii) which shall be in unclassified
24 form to the greatest extent possible, with a
25 classified annex where necessary.

1 “(2) CONTENTS.—Not less than 2 reports sub-
2 mitted each year under paragraph (1)(B) shall in-
3 clude—

4 “(A) a description of the major activities
5 of the Board during the preceding period;

6 “(B) information on the findings, conclu-
7 sions, and recommendations of the Board re-
8 sulting from its advice and oversight functions
9 under subsection (d);

10 “(C) the minority views on any findings,
11 conclusions, and recommendations of the Board
12 resulting from its advice and oversight func-
13 tions under subsection (d);

14 “(D) each proposal reviewed by the Board
15 under subsection (d)(1) that—

16 “(i) the Board advised against imple-
17 mentation; and

18 “(ii) notwithstanding such advice, ac-
19 tions were taken to implement; and

20 “(E) for the preceding period, any requests
21 submitted under subsection (g)(1)(D) for the
22 issuance of subpoenas that were modified or de-
23 nied by the Attorney General.

24 “(f) INFORMING THE PUBLIC.—The Board shall—

1 “(1) make its reports, including its reports to
2 Congress, available to the public to the greatest ex-
3 tent that is consistent with the protection of classi-
4 fied information and applicable law; and

5 “(2) hold public hearings and otherwise inform
6 the public of its activities, as appropriate and in a
7 manner consistent with the protection of classified
8 information and applicable law.

9 “(g) ACCESS TO INFORMATION.—

10 “(1) AUTHORIZATION.—If determined by the
11 Board to be necessary to carry out its responsibil-
12 ities under this section, the Board is authorized to—

13 “(A) have access from any department,
14 agency, or element of the executive branch, or
15 any Federal officer or employee, to all relevant
16 records, reports, audits, reviews, documents, pa-
17 pers, recommendations, or other relevant mate-
18 rial, including classified information consistent
19 with applicable law;

20 “(B) interview, take statements from, or
21 take public testimony from personnel of any de-
22 partment, agency, or element of the executive
23 branch, or any Federal officer or employee;

24 “(C) request information or assistance
25 from any State, tribal, or local government; and

1 “(D) at the direction of a majority of the
2 members of the Board, submit a written re-
3 quest to the Attorney General of the United
4 States that the Attorney General require, by
5 subpoena, persons (other than departments,
6 agencies, and elements of the executive branch)
7 to produce any relevant information, docu-
8 ments, reports, answers, records, accounts, pa-
9 pers, and other documentary or testimonial evi-
10 dence.

11 “(2) REVIEW OF SUBPOENA REQUEST.—

12 “(A) IN GENERAL.—Not later than 30
13 days after the date of receipt of a request by
14 the Board under paragraph (1)(D), the Attor-
15 ney General shall—

16 “(i) issue the subpoena as requested;
17 or

18 “(ii) provide the Board, in writing,
19 with an explanation of the grounds on
20 which the subpoena request has been modi-
21 fied or denied.

22 “(B) NOTIFICATION.—If a subpoena re-
23 quest is modified or denied under subparagraph
24 (A)(ii), the Attorney General shall, not later
25 than 30 days after the date of that modification

1 or denial, notify the Committee on the Judici-
2 ary of the Senate and the Committee on the
3 Judiciary of the House of Representatives.

4 “(3) ENFORCEMENT OF SUBPOENA.—In the
5 case of contumacy or failure to obey a subpoena
6 issued pursuant to paragraph (1)(D), the United
7 States district court for the judicial district in which
8 the subpoenaed person resides, is served, or may be
9 found may issue an order requiring such person to
10 produce the evidence required by such subpoena.

11 “(4) AGENCY COOPERATION.—Whenever infor-
12 mation or assistance requested under subparagraph
13 (A) or (B) of paragraph (1) is, in the judgment of
14 the Board, unreasonably refused or not provided, the
15 Board shall report the circumstances to the head of
16 the department, agency, or element concerned with-
17 out delay. The head of the department, agency, or
18 element concerned shall ensure that the Board is
19 given access to the information, assistance, material,
20 or personnel the Board determines to be necessary
21 to carry out its functions.

22 “(h) MEMBERSHIP.—

23 “(1) MEMBERS.—The Board shall be composed
24 of a full-time chairman and 4 additional members,

1 who shall be appointed by the President, by and
2 with the advice and consent of the Senate.

3 “(2) QUALIFICATIONS.—Members of the Board
4 shall be selected solely on the basis of their profes-
5 sional qualifications, achievements, public stature,
6 expertise in civil liberties and privacy, and relevant
7 experience, and without regard to political affiliation,
8 but in no event shall more than 3 members of the
9 Board be members of the same political party.

10 “(3) INCOMPATIBLE OFFICE.—An individual
11 appointed to the Board may not, while serving on
12 the Board, be an elected official, officer, or employee
13 of the Federal Government, other than in the capac-
14 ity as a member of the Board.

15 “(4) TERM.—Each member of the Board shall
16 serve a term of six years, except that—

17 “(A) a member appointed to a term of of-
18 fice after the commencement of such term may
19 serve under such appointment only for the re-
20 mainder of such term;

21 “(B) upon the expiration of the term of of-
22 fice of a member, the member shall continue to
23 serve until the member’s successor has been ap-
24 pointed and qualified, except that no member
25 may serve under this subparagraph—

1 “(i) for more than 60 days when Con-
2 gress is in session unless a nomination to
3 fill the vacancy shall have been submitted
4 to the Senate; or

5 “(ii) after the adjournment sine die of
6 the session of the Senate in which such
7 nomination is submitted; and

8 “(C) the members first appointed under
9 this subsection after the date of enactment of
10 the Improving America’s Security Act of 2007
11 shall serve terms of two, three, four, five, and
12 six years, respectively, with the term of each
13 such member to be designated by the President.

14 “(5) QUORUM AND MEETINGS.—After its initial
15 meeting, the Board shall meet upon the call of the
16 chairman or a majority of its members. Three mem-
17 bers of the Board shall constitute a quorum.

18 “(i) COMPENSATION AND TRAVEL EXPENSES.—

19 “(1) COMPENSATION.—

20 “(A) CHAIRMAN.—The chairman of the
21 Board shall be compensated at the rate of pay
22 payable for a position at level III of the Execu-
23 tive Schedule under section 5314 of title 5,
24 United States Code.

1 “(B) MEMBERS.—Each member of the
2 Board shall be compensated at a rate of pay
3 payable for a position at level IV of the Execu-
4 tive Schedule under section 5315 of title 5,
5 United States Code, for each day during which
6 that member is engaged in the actual perform-
7 ance of the duties of the Board.

8 “(2) TRAVEL EXPENSES.—Members of the
9 Board shall be allowed travel expenses, including per
10 diem in lieu of subsistence, at rates authorized for
11 persons employed intermittently by the Government
12 under section 5703(b) of title 5, United States Code,
13 while away from their homes or regular places of
14 business in the performance of services for the
15 Board.

16 “(j) STAFF.—

17 “(1) APPOINTMENT AND COMPENSATION.—The
18 chairman of the Board, in accordance with rules
19 agreed upon by the Board, shall appoint and fix the
20 compensation of a full-time executive director and
21 such other personnel as may be necessary to enable
22 the Board to carry out its functions, without regard
23 to the provisions of title 5, United States Code, gov-
24 erning appointments in the competitive service, and
25 without regard to the provisions of chapter 51 and

1 subchapter III of chapter 53 of such title relating to
2 classification and General Schedule pay rates, except
3 that no rate of pay fixed under this subsection may
4 exceed the equivalent of that payable for a position
5 at level V of the Executive Schedule under section
6 5316 of title 5, United States Code.

7 “(2) DETAILEES.—Any Federal employee may
8 be detailed to the Board without reimbursement
9 from the Board, and such detailee shall retain the
10 rights, status, and privileges of the detailee’s regular
11 employment without interruption.

12 “(3) CONSULTANT SERVICES.—The Board may
13 procure the temporary or intermittent services of ex-
14 perts and consultants in accordance with section
15 3109 of title 5, United States Code, at rates that do
16 not exceed the daily rate paid a person occupying a
17 position at level IV of the Executive Schedule under
18 section 5315 of such title.

19 “(k) SECURITY CLEARANCES.—The appropriate de-
20 partments, agencies, and elements of the executive branch
21 shall cooperate with the Board to expeditiously provide the
22 Board members and staff with appropriate security clear-
23 ances to the extent possible under existing procedures and
24 requirements.

1 “(l) TREATMENT AS AGENCY, NOT AS ADVISORY
2 COMMITTEE.—The Board—

3 “(1) is an agency (as defined in section 551(1)
4 of title 5, United States Code); and

5 “(2) is not an advisory committee (as defined in
6 section 3(2) of the Federal Advisory Committee Act
7 (5 U.S.C. App.)).

8 “(m) AUTHORIZATION OF APPROPRIATIONS.—There
9 are authorized to be appropriated to carry out this section
10 amounts as follows:

11 “(1) For fiscal year 2008, \$5,000,000.

12 “(2) For fiscal year 2009, \$6,650,000.

13 “(3) For fiscal year 2010, \$8,300,000.

14 “(4) For fiscal year 2011, \$10,000,000.

15 “(5) For fiscal year 2012, and each fiscal year
16 thereafter, such sums as may be necessary.”.

17 (b) CONTINUATION OF SERVICE OF CURRENT MEM-
18 BERS OF PRIVACY AND CIVIL LIBERTIES BOARD.—The
19 members of the Privacy and Civil Liberties Oversight
20 Board as of the date of enactment of this Act may con-
21 tinue to serve as members of that Board after that date,
22 and to carry out the functions and exercise the powers
23 of that Board as specified in section 1061 of the National
24 Security Intelligence Reform Act of 2004 (as amended by
25 subsection (a)), until—

1 (1) in the case of any individual serving as a
2 member of the Board under an appointment by the
3 President, by and with the advice and consent of the
4 Senate, the expiration of a term designated by the
5 President under section 1061(h)(4)(C) of such Act
6 (as so amended);

7 (2) in the case of any individual serving as a
8 member of the Board other than under an appoint-
9 ment by the President, by and with the advice and
10 consent of the Senate, the confirmation or rejection
11 by the Senate of that member's nomination to the
12 Board under such section 1061 (as so amended), ex-
13 cept that no such individual may serve as a member
14 under this paragraph—

15 (A) for more than 60 days when Congress
16 is in session unless a nomination of that indi-
17 vidual to be a member of the Board has been
18 submitted to the Senate; or

19 (B) after the adjournment sine die of the
20 session of the Senate in which such nomination
21 is submitted; or

22 (3) the appointment of members of the Board
23 under such section 1061 (as so amended), except
24 that no member may serve under this paragraph—

1 (A) for more than 60 days when Congress
2 is in session unless a nomination to fill the posi-
3 tion on the Board shall have been submitted to
4 the Senate; or

5 (B) after the adjournment sine die of the
6 session of the Senate in which such nomination
7 is submitted.

8 **SEC. 502. PRIVACY AND CIVIL LIBERTIES OFFICERS.**

9 (a) IN GENERAL.—Section 1062 of the National Se-
10 curity Intelligence Reform Act of 2004 (title I of Public
11 Law 108–458; 118 Stat. 3688) is amended to read as fol-
12 lows:

13 **“SEC. 1062. PRIVACY AND CIVIL LIBERTIES OFFICERS.**

14 “(a) DESIGNATION AND FUNCTIONS.—The Attorney
15 General, the Secretary of Defense, the Secretary of State,
16 the Secretary of the Treasury, the Secretary of Health and
17 Human Services, the Secretary of Homeland Security, the
18 Director of National Intelligence, the Director of the Cen-
19 tral Intelligence Agency, and the head of any other depart-
20 ment, agency, or element of the executive branch des-
21 ignated by the Privacy and Civil Liberties Oversight
22 Board under section 1061 to be appropriate for coverage
23 under this section shall designate not less than 1 senior
24 officer to—

1 “(1) assist the head of such department, agen-
2 cy, or element and other officials of such depart-
3 ment, agency, or element in appropriately consid-
4 ering privacy and civil liberties concerns when such
5 officials are proposing, developing, or implementing
6 laws, regulations, policies, procedures, or guidelines
7 related to efforts to protect the Nation against ter-
8 rorism;

9 “(2) periodically investigate and review depart-
10 ment, agency, or element actions, policies, proce-
11 dures, guidelines, and related laws and their imple-
12 mentation to ensure that such department, agency,
13 or element is adequately considering privacy and
14 civil liberties in its actions;

15 “(3) ensure that such department, agency, or
16 element has adequate procedures to receive, inves-
17 tigate, respond to, and redress complaints from indi-
18 viduals who allege such department, agency, or ele-
19 ment has violated their privacy or civil liberties; and

20 “(4) in providing advice on proposals to retain
21 or enhance a particular governmental power the offi-
22 cer shall consider whether such department, agency,
23 or element has established—

1 “(A) that the need for the power is bal-
2 anced with the need to protect privacy and civil
3 liberties;

4 “(B) that there is adequate supervision of
5 the use by such department, agency, or element
6 of the power to ensure protection of privacy and
7 civil liberties; and

8 “(C) that there are adequate guidelines
9 and oversight to properly confine its use.

10 “(b) EXCEPTION TO DESIGNATION AUTHORITY.—

11 “(1) PRIVACY OFFICERS.—In any department,
12 agency, or element referred to in subsection (a) or
13 designated by the Privacy and Civil Liberties Over-
14 sight Board, which has a statutorily created privacy
15 officer, such officer shall perform the functions spec-
16 ified in subsection (a) with respect to privacy.

17 “(2) CIVIL LIBERTIES OFFICERS.—In any de-
18 partment, agency, or element referred to in sub-
19 section (a) or designated by the Board, which has a
20 statutorily created civil liberties officer, such officer
21 shall perform the functions specified in subsection
22 (a) with respect to civil liberties.

23 “(c) SUPERVISION AND COORDINATION.—Each pri-
24 vacy officer or civil liberties officer described in subsection
25 (a) or (b) shall—

1 “(1) report directly to the head of the depart-
2 ment, agency, or element concerned; and

3 “(2) coordinate their activities with the Inspec-
4 tor General of such department, agency, or element
5 to avoid duplication of effort.

6 “(d) AGENCY COOPERATION.—The head of each de-
7 partment, agency, or element shall ensure that each pri-
8 vacy officer and civil liberties officer—

9 “(1) has the information, material, and re-
10 sources necessary to fulfill the functions of such offi-
11 cer;

12 “(2) is advised of proposed policy changes;

13 “(3) is consulted by decision makers; and

14 “(4) is given access to material and personnel
15 the officer determines to be necessary to carry out
16 the functions of such officer.

17 “(e) REPRISAL FOR MAKING COMPLAINT.—No ac-
18 tion constituting a reprisal, or threat of reprisal, for mak-
19 ing a complaint or for disclosing information to a privacy
20 officer or civil liberties officer described in subsection (a)
21 or (b), or to the Privacy and Civil Liberties Oversight
22 Board, that indicates a possible violation of privacy protec-
23 tions or civil liberties in the administration of the pro-
24 grams and operations of the Federal Government relating
25 to efforts to protect the Nation from terrorism shall be

1 taken by any Federal employee in a position to take such
2 action, unless the complaint was made or the information
3 was disclosed with the knowledge that it was false or with
4 willful disregard for its truth or falsity.

5 “(f) PERIODIC REPORTS.—

6 “(1) IN GENERAL.—The privacy officers and
7 civil liberties officers of each department, agency, or
8 element referred to or described in subsection (a) or
9 (b) shall periodically, but not less than quarterly,
10 submit a report on the activities of such officers—

11 “(A)(i) to the appropriate committees of
12 Congress, including the Committees on the Ju-
13 diciary of the Senate and the House of Rep-
14 resentatives, the Committee on Homeland Secu-
15 rity and Governmental Affairs of the Senate,
16 the Committee on Government Reform of the
17 House of Representatives, the Select Committee
18 on Intelligence of the Senate, and the Perma-
19 nent Select Committee on Intelligence of the
20 House of Representatives;

21 “(ii) to the head of such department, agen-
22 cy, or element; and

23 “(iii) to the Privacy and Civil Liberties
24 Oversight Board; and

1 “(B) which shall be in unclassified form to
2 the greatest extent possible, with a classified
3 annex where necessary.

4 “(2) CONTENTS.—Each report submitted under
5 paragraph (1) shall include information on the dis-
6 charge of each of the functions of the officer con-
7 cerned, including—

8 “(A) information on the number and types
9 of reviews undertaken;

10 “(B) the type of advice provided and the
11 response given to such advice;

12 “(C) the number and nature of the com-
13 plaints received by the department, agency, or
14 element concerned for alleged violations; and

15 “(D) a summary of the disposition of such
16 complaints, the reviews and inquiries conducted,
17 and the impact of the activities of such officer.

18 “(g) INFORMING THE PUBLIC.—Each privacy officer
19 and civil liberties officer shall—

20 “(1) make the reports of such officer, including
21 reports to Congress, available to the public to the
22 greatest extent that is consistent with the protection
23 of classified information and applicable law; and

24 “(2) otherwise inform the public of the activi-
25 ties of such officer, as appropriate and in a manner

1 consistent with the protection of classified informa-
2 tion and applicable law.

3 “(h) SAVINGS CLAUSE.—Nothing in this section shall
4 be construed to limit or otherwise supplant any other au-
5 thorities or responsibilities provided by law to privacy offi-
6 cers or civil liberties officers.”.

7 (b) CLERICAL AMENDMENT.—The table of contents
8 for the Intelligence Reform and Terrorism Prevention Act
9 of 2004 (Public Law 108–458) is amended by striking the
10 item relating to section 1062 and inserting the following
11 new item:

“Sec. 1062. Privacy and civil liberties officers.”.

12 **SEC. 503. DEPARTMENT PRIVACY OFFICER.**

13 Section 222 of the Homeland Security Act of 2002
14 (6 U.S.C. 142) is amended—

15 (1) by inserting “(a) APPOINTMENT AND RE-
16 SPONSIBILITIES.—” before “The Secretary”; and

17 (2) by adding at the end the following:

18 “(b) AUTHORITY TO INVESTIGATE.—

19 “(1) IN GENERAL.—The senior official ap-
20 pointed under subsection (a) may—

21 “(A) have access to all records, reports,
22 audits, reviews, documents, papers, rec-
23 ommendations, and other materials available to
24 the Department that relate to programs and op-

1 erations with respect to the responsibilities of
2 the senior official under this section;

3 “(B) make such investigations and reports
4 relating to the administration of the programs
5 and operations of the Department that are nec-
6 essary or desirable as determined by that senior
7 official;

8 “(C) subject to the approval of the Sec-
9 retary, require by subpoena the production, by
10 any person other than a Federal agency, of all
11 information, documents, reports, answers,
12 records, accounts, papers, and other data and
13 documentary evidence necessary to performance
14 of the responsibilities of the senior official
15 under this section; and

16 “(D) administer to or take from any per-
17 son an oath, affirmation, or affidavit, whenever
18 necessary to performance of the responsibilities
19 of the senior official under this section.

20 “(2) ENFORCEMENT OF SUBPOENAS.—Any sub-
21 poena issued under paragraph (1)(C) shall, in the
22 case of contumacy or refusal to obey, be enforceable
23 by order of any appropriate United States district
24 court.

1 “(3) EFFECT OF OATHS.—Any oath, affirma-
2 tion, or affidavit administered or taken under para-
3 graph (1)(D) by or before an employee of the Pri-
4 vacy Office designated for that purpose by the senior
5 official appointed under subsection (a) shall have the
6 same force and effect as if administered or taken by
7 or before an officer having a seal of office.

8 “(c) SUPERVISION AND COORDINATION.—

9 “(1) IN GENERAL.—The senior official ap-
10 pointed under subsection (a) shall—

11 “(A) report to, and be under the general
12 supervision of, the Secretary; and

13 “(B) coordinate activities with the Inspec-
14 tor General of the Department of Homeland Se-
15 curity in order to avoid duplication of effort.

16 “(2) NOTIFICATION TO CONGRESS ON RE-
17 MOVAL.—If the Secretary removes the senior official
18 appointed under subsection (a) or transfers that sen-
19 ior official to another position or location within the
20 Department, the Secretary shall—

21 “(A) promptly submit a written notifica-
22 tion of the removal or transfer to Houses of
23 Congress; and

24 “(B) include in any such notification the
25 reasons for the removal or transfer.

1 “(d) REPORTS BY SENIOR OFFICIAL TO CON-
2 GRESS.—The senior official appointed under subsection
3 (a) shall—

4 “(1) submit reports directly to the Congress re-
5 garding performance of the responsibilities of the
6 senior official under this section, without any prior
7 comment or amendment by the Secretary, Deputy
8 Secretary, or any other officer or employee of the
9 Department or the Office of Management and Budg-
10 et; and

11 “(2) inform the Committee on Homeland Secu-
12 rity and Governmental Affairs of the Senate and the
13 Committee on Homeland Security of the House of
14 Representatives not later than—

15 “(A) 30 days after the Secretary dis-
16 approves the senior official’s request for a sub-
17 poena under subsection (b)(1)(C) or the Sec-
18 retary substantively modifies the requested sub-
19 poena; or

20 “(B) 45 days expire without either ap-
21 proval or disapproval of the subpoena by the
22 Secretary.”.

1 **TITLE VI—ENHANCED DEFENSES**
2 **AGAINST WEAPONS OF MASS**
3 **DESTRUCTION**

4 **SEC. 601. NATIONAL BIOSURVEILLANCE INTEGRATION**
5 **CENTER.**

6 (a) IN GENERAL.—Title III of the Homeland Secu-
7 rity Act of 2002 (6 U.S.C. et seq.) is amended by adding
8 at the end the following:

9 **“SEC. 316. NATIONAL BIOSURVEILLANCE INTEGRATION**
10 **CENTER.**

11 “(a) DEFINITIONS.—In this section—

12 “(1) the term ‘biological event of national sig-
13 nificance’ means—

14 “(A) an act of terrorism that uses a bio-
15 logical agent, toxin, or other product derived
16 from a biological agent; or

17 “(B) a naturally-occurring outbreak of an
18 infectious disease that may result in a national
19 epidemic;

20 “(2) the term ‘Member Agencies’ means the de-
21 partments and agencies described in subsection
22 (d)(1);

23 “(3) the term ‘NBIC’ means the National Bio-
24 surveillance Integration Center established under
25 subsection (b);

1 “(4) the term ‘NBIS’ means the National Bio-
2 surveillance Integration System established under
3 subsection (b); and

4 “(5) the term ‘Privacy Officer’ means the Pri-
5 vacy Officer appointed under section 222.

6 “(b) ESTABLISHMENT.—The Secretary shall estab-
7 lish, operate, and maintain a National Biosurveillance In-
8 tegration Center, headed by a Directing Officer, under an
9 existing office or directorate of the Department, subject
10 to the availability of appropriations, to oversee develop-
11 ment and operation of the National Biosurveillance Inte-
12 gration System.

13 “(c) PRIMARY MISSION.—The primary mission of the
14 NBIC is to enhance the capability of the Federal Govern-
15 ment to—

16 “(1) rapidly identify, characterize, localize, and
17 track a biological event of national significance by
18 integrating and analyzing data from human health,
19 animal, plant, food, and environmental monitoring
20 systems (both national and international); and

21 “(2) disseminate alerts and other information
22 regarding such data analysis to Member Agencies,
23 and to agencies of State, local, and tribal govern-
24 ments, as appropriate, to enhance the ability of such

1 agencies to respond to a biological event of national
2 significance.

3 “(d) REQUIREMENTS.—The NBIC shall design the
4 NBIS to detect, as early as possible, a biological event of
5 national significance that presents a risk to the United
6 States or the infrastructure or key assets of the United
7 States, including—

8 “(1) if a Federal department or agency, at the
9 discretion of the head of that department or agency,
10 has entered a memorandum of understanding re-
11 garding participation in the NBIC, consolidating
12 data from all relevant surveillance systems main-
13 tained by that department or agency to detect bio-
14 logical events of national significance across human,
15 animal, and plant species;

16 “(2) seeking private sources of surveillance,
17 both foreign and domestic, when such sources would
18 enhance coverage of critical surveillance gaps;

19 “(3) using an information technology system
20 that uses the best available statistical and other ana-
21 lytical tools to identify and characterize biological
22 events of national significance in as close to real-
23 time as is practicable;

24 “(4) providing the infrastructure for such inte-
25 gration, including information technology systems

1 and space, and support for personnel from Member
2 Agencies with sufficient expertise to enable analysis
3 and interpretation of data;

4 “(5) working with Member Agencies to create
5 information technology systems that use the min-
6 imum amount of patient data necessary and consider
7 patient confidentiality and privacy issues at all
8 stages of development and apprise the Privacy Offi-
9 cer of such efforts; and

10 “(6) alerting relevant Member Agencies and, in
11 consultation with relevant Member Agencies, public
12 health agencies of State, local, and tribal govern-
13 ments regarding any incident that could develop into
14 a biological event of national significance.

15 “(e) RESPONSIBILITIES OF THE SECRETARY.—

16 “(1) IN GENERAL.—The Secretary shall—

17 “(A) ensure that the NBIC is fully oper-
18 ational not later than September 30, 2008;

19 “(B) not later than 180 days after the
20 date of enactment of this section and on the
21 date that the NBIC is fully operational, submit
22 a report to the Committee on Homeland Secu-
23 rity and Governmental Affairs of the Senate
24 and the Committee on Homeland Security of
25 the House of Representatives on the progress of

1 making the NBIC operational addressing the
2 efforts of the NBIC to integrate surveillance ef-
3 forts of Federal, State, local, and tribal govern-
4 ments.

5 “(f) RESPONSIBILITIES OF THE DIRECTING OFFICER
6 OF THE NBIC.—

7 “(1) IN GENERAL.—The Directing Officer of
8 the NBIC shall—

9 “(A) establish an entity to perform all op-
10 erations and assessments related to the NBIS;

11 “(B) on an ongoing basis, monitor the
12 availability and appropriateness of contributing
13 surveillance systems and solicit new surveillance
14 systems that would enhance biological situa-
15 tional awareness or overall performance of the
16 NBIS;

17 “(C) on an ongoing basis, review and seek
18 to improve the statistical and other analytical
19 methods utilized by the NBIS;

20 “(D) receive and consider other relevant
21 homeland security information, as appropriate;
22 and

23 “(E) provide technical assistance, as ap-
24 propriate, to all Federal, regional, State, local,
25 and tribal government entities and private sec-

1 tor entities that contribute data relevant to the
2 operation of the NBIS.

3 “(2) ASSESSMENTS.—The Directing Officer of
4 the NBIC shall—

5 “(A) on an ongoing basis, evaluate avail-
6 able data for evidence of a biological event of
7 national significance; and

8 “(B) integrate homeland security informa-
9 tion with NBIS data to provide overall situa-
10 tional awareness and determine whether a bio-
11 logical event of national significance has oc-
12 curred.

13 “(3) INFORMATION SHARING.—

14 “(A) IN GENERAL.—The Directing Officer
15 of the NBIC shall—

16 “(i) establish a method of real-time
17 communication with the National Oper-
18 ations Center, to be known as the Biologi-
19 cal Common Operating Picture;

20 “(ii) in the event that a biological
21 event of national significance is detected,
22 notify the Secretary and disseminate re-
23 sults of NBIS assessments related to that
24 biological event of national significance to
25 appropriate Federal, regional, State, local,

1 and tribal governmental response entities
2 in a timely manner;

3 “(iii) provide any report on NBIS as-
4 sessments to Member Agencies, any af-
5 fected regional, State, local, or tribal gov-
6 ernment, and any private sector entity con-
7 sidered appropriate that may enhance the
8 mission of such Member Agencies, govern-
9 ments, or entities or the ability of the Na-
10 tion to respond to biological events of na-
11 tional significance; and

12 “(iv) share NBIS incident or situa-
13 tional awareness reports, and other rel-
14 evant information, consistent with the in-
15 formation sharing environment established
16 under section 1016 of the Intelligence Re-
17 form and Terrorism Prevention Act of
18 2004 (6 U.S.C. 485) and any policies,
19 guidelines, procedures, instructions, or
20 standards established by the President or
21 the program manager for the implementa-
22 tion and management of that environment.

23 “(B) COORDINATION.—The Directing Offi-
24 cer of the NBIC shall implement the activities
25 described in subparagraph (A) in coordination

1 with the program manager for the information
2 sharing environment of the Office of the Direc-
3 tor of National Intelligence, the Under Sec-
4 retary for Intelligence and Analysis, and other
5 offices or agencies of the Federal Government,
6 as appropriate.

7 “(g) RESPONSIBILITIES OF THE NBIC MEMBER
8 AGENCIES.—

9 “(1) IN GENERAL.—Each Member Agency
10 shall—

11 “(A) use its best efforts to integrate bio-
12 surveillance information into the NBIS, with
13 the goal of promoting information sharing be-
14 tween Federal, State, local, and tribal govern-
15 ments to detect biological events of national sig-
16 nificance;

17 “(B) participate in the formation and
18 maintenance of the Biological Common Oper-
19 ating Picture to facilitate timely and accurate
20 detection and reporting;

21 “(C) connect the biosurveillance data sys-
22 tems of that Member Agency to the NBIC data
23 system under mutually-agreed protocols that
24 maintain patient confidentiality and privacy;

1 “(D) participate in the formation of strat-
2 egy and policy for the operation of the NBIC
3 and its information sharing; and

4 “(E) provide personnel to the NBIC under
5 an interagency personnel agreement and con-
6 sider the qualifications of such personnel nec-
7 essary to provide human, animal, and environ-
8 mental data analysis and interpretation support
9 to the NBIC.

10 “(h) ADMINISTRATIVE AUTHORITIES.—

11 “(1) HIRING OF EXPERTS.—The Directing Offi-
12 cer of the NBIC shall hire individuals with the nec-
13 essary expertise to develop and operate the NBIS.

14 “(2) DETAIL OF PERSONNEL.—Upon the re-
15 quest of the Directing Officer of the NBIC, the head
16 of any Federal department or agency may detail, on
17 a reimbursable basis, any of the personnel of that
18 department or agency to the Department to assist
19 the NBIC in carrying out this section.

20 “(i) JOINT BIOSURVEILLANCE LEADERSHIP COUN-
21 CIL.—The Directing Officer of the NBIC shall—

22 “(1) establish an interagency coordination coun-
23 cil to facilitate interagency cooperation and to advise
24 the Directing Officer of the NBIC regarding rec-

1 ommendations to enhance the biosurveillance capa-
2 bilities of the Department; and

3 “(2) invite Member Agencies to serve on such
4 council.

5 “(j) RELATIONSHIP TO OTHER DEPARTMENTS AND
6 AGENCIES.—The authority of the Directing Officer of the
7 NBIC under this section shall not affect any authority or
8 responsibility of any other department or agency of the
9 Federal Government with respect to biosurveillance activi-
10 ties under any program administered by that department
11 or agency.

12 “(k) AUTHORIZATION OF APPROPRIATIONS.—There
13 are authorized to be appropriated such sums as are nec-
14 essary to carry out this section.”.

15 (b) CONFORMING AMENDMENT.—The table of con-
16 tents in section 1(b) of the Homeland Security Act of
17 2002 (6 U.S.C. 101 et seq.) is amended by inserting after
18 the item relating to section 315 the following:

“Sec. 316. National Biosurveillance Integration Center.”.

19 **SEC. 602. BIOSURVEILLANCE EFFORTS.**

20 The Comptroller General of the United States shall
21 submit a report to Congress describing—

22 (1) the state of Federal, State, local, and tribal
23 government biosurveillance efforts as of the date of
24 such report;

1 (2) any duplication of effort at the Federal,
2 State, local, or tribal government level to create bio-
3 surveillance systems; and

4 (3) the integration of biosurveillance systems to
5 allow the maximizing of biosurveillance resources
6 and the expertise of Federal, State, local, and tribal
7 governments to benefit public health.

8 **SEC. 603. INTERAGENCY COORDINATION TO ENHANCE DE-**
9 **FENSES AGAINST NUCLEAR AND RADIO-**
10 **LOGICAL WEAPONS OF MASS DESTRUCTION.**

11 (a) IN GENERAL.—The Homeland Security Act of
12 2002 is amended by adding after section 1906, as redesign-
13 nated by section 203 of this Act, the following:

14 **“SEC. 1907. JOINT ANNUAL REVIEW OF GLOBAL NUCLEAR**
15 **DETECTION ARCHITECTURE.**

16 “(a) ANNUAL REVIEW.—

17 “(1) IN GENERAL.—The Secretary, the Attor-
18 ney General, the Secretary of State, the Secretary of
19 Defense, the Secretary of Energy, and the Director
20 of National Intelligence shall jointly ensure inter-
21 agency coordination on the development and imple-
22 mentation of the global nuclear detection architec-
23 ture by ensuring that, not less frequently than once
24 each year—

1 “(A) each relevant agency, office, or enti-
2 ty—

3 “(i) assesses its involvement, support,
4 and participation in the development, revi-
5 sion, and implementation of the global nu-
6 clear detection architecture;

7 “(ii) examines and evaluates compo-
8 nents of the global nuclear detection archi-
9 tecture (including associated strategies and
10 acquisition plans) that are related to the
11 operations of that agency, office, or entity,
12 to determine whether such components in-
13 corporate and address current threat as-
14 sessments, scenarios, or intelligence anal-
15 yses developed by the Director of National
16 Intelligence or other agencies regarding
17 threats related to nuclear or radiological
18 weapons of mass destruction; and

19 “(B) each agency, office, or entity deploy-
20 ing or operating any technology acquired by the
21 Office—

22 “(i) evaluates the deployment and op-
23 eration of that technology by that agency,
24 office, or entity;

1 “(ii) identifies detection performance
2 deficiencies and operational or technical
3 deficiencies in that technology; and

4 “(iii) assesses the capacity of that
5 agency, office, or entity to implement the
6 responsibilities of that agency, office, or
7 entity under the global nuclear detection
8 architecture.

9 “(2) TECHNOLOGY.—Not less frequently than
10 once each year, the Secretary shall examine and
11 evaluate the development, assessment, and acquisi-
12 tion of technology by the Office.

13 “(b) ANNUAL REPORT.—

14 “(1) IN GENERAL.—Not later than March 31 of
15 each year, the Secretary, in coordination with the
16 Attorney General, the Secretary of State, the Sec-
17 retary of Defense, the Secretary of Energy, and the
18 Director of National Intelligence, shall submit a re-
19 port regarding the compliance of such officials with
20 this section and the results of the reviews required
21 under subsection (a) to—

22 “(A) the President;

23 “(B) the Committee on Appropriations and
24 the Committee on Homeland Security and Gov-
25 ernmental Affairs of the Senate; and

1 “(C) the Committee on Appropriations and
2 the Committee on Homeland Security of the
3 House of Representatives.

4 “(2) FORM.—Each report submitted under
5 paragraph (1) shall be submitted in unclassified
6 form to the maximum extent practicable, but may
7 include a classified annex.

8 “(c) DEFINITION.—In this section, the term ‘global
9 nuclear detection architecture’ means the global nuclear
10 detection architecture developed under section 1902.”.

11 (b) TECHNICAL AND CONFORMING AMENDMENT.—
12 The table of contents in section 1(b) of the Homeland Se-
13 curity Act of 2002 (6 U.S.C. 101 note) is amended by
14 inserting after the item relating to section 1906, as added
15 by section 203 of this Act, the following:

“Sec. 1907. Joint annual review of global nuclear detection architecture.”.

16 **TITLE VII—PRIVATE SECTOR**
17 **PREPAREDNESS**

18 **SEC. 701. DEFINITIONS.**

19 (a) IN GENERAL.—In this title, the term “voluntary
20 national preparedness standards” has the meaning given
21 that term in section 2 of the Homeland Security Act of
22 2002 (6 U.S.C. 101), as amended by this Act.

23 (b) HOMELAND SECURITY ACT OF 2002.—Section 2
24 of the Homeland Security Act of 2002 (6 U.S.C. 101) is
25 amended by adding at the end the following:

1 “(17) The term ‘voluntary national prepared-
2 ness standards’ means a common set of criteria for
3 preparedness, disaster management, emergency
4 management, and business continuity programs,
5 such as the American National Standards Institute’s
6 National Fire Protection Association Standard on
7 Disaster/Emergency Management and Business Con-
8 tinuity Programs (ANSI/NFPA 1600).”.

9 **SEC. 702. RESPONSIBILITIES OF THE PRIVATE SECTOR OF-**
10 **FICE OF THE DEPARTMENT.**

11 (a) IN GENERAL.—Section 102(f) of the Homeland
12 Security Act of 2002 (6 U.S.C. 112(f)) is amended—

13 (1) by redesignating paragraphs (8) through
14 (10) as paragraphs (9) through (11), respectively;
15 and

16 (2) by inserting after paragraph (7) the fol-
17 lowing:

18 “(8) providing information to the private sector
19 regarding voluntary national preparedness standards
20 and the business justification for preparedness and
21 promoting to the private sector the adoption of vol-
22 untary national preparedness standards;”.

23 (b) PRIVATE SECTOR ADVISORY COUNCILS.—Section
24 102(f)(4) of the Homeland Security Act of 2002 (6 U.S.C.
25 112(f)(4)) is amended—

1 (1) in subparagraph (A), by striking “and” at
2 the end;

3 (2) in subparagraph (B), by adding “and” at
4 the end; and

5 (3) by adding at the end the following:

6 “(C) advise the Secretary on private sector
7 preparedness issues, including effective methods
8 for—

9 “(i) promoting voluntary national pre-
10 paredness standards to the private sector;

11 “(ii) assisting the private sector in
12 adopting voluntary national preparedness
13 standards; and

14 “(iii) developing and implementing the
15 accreditation and certification program
16 under section 522;”.

17 **SEC. 703. VOLUNTARY NATIONAL PREPAREDNESS STAND-**
18 **ARDS COMPLIANCE; ACCREDITATION AND**
19 **CERTIFICATION PROGRAM FOR THE PRIVATE**
20 **SECTOR.**

21 (a) IN GENERAL.—Title V of the Homeland Security
22 Act of 2002 (6 U.S.C. 311 et seq.) is amended by adding
23 at the end the following:

1 **“SEC. 522. VOLUNTARY NATIONAL PREPAREDNESS STAND-**
2 **ARDS COMPLIANCE; ACCREDITATION AND**
3 **CERTIFICATION PROGRAM FOR THE PRIVATE**
4 **SECTOR.**

5 “(a) ACCREDITATION AND CERTIFICATION PRO-
6 GRAM.—Not later than 120 days after the date of enact-
7 ment of this section, the Secretary, in consultation with
8 the American National Standards Institute and represent-
9 atives of appropriate voluntary consensus standards devel-
10 opment organizations and each private sector advisory
11 council created under section 102(f)(4), shall—

12 “(1) support the development, promulgating,
13 and updating, as necessary, of voluntary national
14 preparedness standards; and

15 “(2) develop, implement, and promote a pro-
16 gram to certify the preparedness of private sector
17 entities.

18 “(b) PROGRAM ELEMENTS.—

19 “(1) IN GENERAL.—

20 “(A) PROGRAM.—The program developed
21 and implemented under this section shall assess
22 whether a private sector entity complies with
23 voluntary national preparedness standards.

24 “(B) GUIDELINES.—In developing the pro-
25 gram under this section, the Secretary shall de-
26 velop guidelines for the accreditation and cer-

1 tification processes established under this sec-
2 tion.

3 “(2) STANDARDS.—The Secretary, in consulta-
4 tion with the American National Standards Institute
5 and representatives of appropriate voluntary con-
6 sensus standards development organizations and
7 each private sector advisory council created under
8 section 102(f)(4)—

9 “(A) shall adopt appropriate voluntary na-
10 tional preparedness standards that promote
11 preparedness, which shall be used in the accred-
12 itation and certification program under this sec-
13 tion; and

14 “(B) after the adoption of standards under
15 subparagraph (A), may adopt additional vol-
16 untary national preparedness standards or mod-
17 ify or discontinue the use of voluntary national
18 preparedness standards for the accreditation
19 and certification program, as necessary and ap-
20 propriate to promote preparedness.

21 “(3) TIERING.—The certification program de-
22 veloped under this section may use a multiple-tiered
23 system to rate the preparedness of a private sector
24 entity.

1 “(4) SMALL BUSINESS CONCERNS.—The Sec-
2 retary and any selected entity shall establish sepa-
3 rate classifications and methods of certification for
4 small business concerns (as that term is defined in
5 section 3 of the Small Business Act (15 U.S.C.
6 632)) for the program under this section.

7 “(5) CONSIDERATIONS.—In developing and im-
8 plementing the program under this section, the Sec-
9 retary shall—

10 “(A) consider the needs of the insurance
11 industry, the credit-ratings industry, and other
12 industries that may consider preparedness of
13 private sector entities, to assess the prepared-
14 ness of private sector entities; and

15 “(B) ensure the program accommodates
16 those needs where appropriate and feasible.

17 “(c) ACCREDITATION AND CERTIFICATION PROC-
18 ESSES.—

19 “(1) AGREEMENT.—

20 “(A) IN GENERAL.—Not later than 120
21 days after the date of enactment of this section,
22 the Secretary shall enter into 1 or more agree-
23 ments with the American National Standards
24 Institute or other similarly qualified nongovern-
25 mental or other private sector entities to carry

1 out accreditations and oversee the certification
2 process under this section.

3 “(B) CONTENTS.—Any selected entity
4 shall manage the accreditation process and
5 oversee the certification process in accordance
6 with the program established under this section
7 and accredit qualified third parties to carry out
8 the certification program established under this
9 section.

10 “(2) PROCEDURES AND REQUIREMENTS FOR
11 ACCREDITATION AND CERTIFICATION.—

12 “(A) IN GENERAL.—The selected entities
13 shall collaborate to develop procedures and re-
14 quirements for the accreditation and certifi-
15 cation processes under this section, in accord-
16 ance with the program established under this
17 section and guidelines developed under sub-
18 section (b)(1)(B).

19 “(B) CONTENTS AND USE.—The proce-
20 dures and requirements developed under sub-
21 paragraph (A) shall—

22 “(i) ensure reasonable uniformity in
23 the accreditation and certification proc-
24 esses if there is more than 1 selected enti-
25 ty; and

1 “(ii) be used by any selected entity in
2 conducting accreditations and overseeing
3 the certification process under this section.

4 “(C) DISAGREEMENT.—Any disagreement
5 among selected entities in developing procedures
6 under subparagraph (A) shall be resolved by
7 the Secretary.

8 “(3) DESIGNATION.—A selected entity may ac-
9 credit any qualified third party to carry out the cer-
10 tification process under this section.

11 “(4) THIRD PARTIES.—To be accredited under
12 paragraph (3), a third party shall—

13 “(A) demonstrate that the third party has
14 the ability to certify private sector entities in
15 accordance with the procedures and require-
16 ments developed under paragraph (2);

17 “(B) agree to perform certifications in ac-
18 cordance with such procedures and require-
19 ments;

20 “(C) agree not to have any beneficial inter-
21 est in or any direct or indirect control over a
22 private sector entity for which that third party
23 conducts a certification under this section;

24 “(D) agree not to have any other conflict
25 of interest with respect to any private sector en-

1 tity for which that third party conducts a cer-
2 tification under this section;

3 “(E) maintain liability insurance coverage
4 at policy limits in accordance with the require-
5 ments developed under paragraph (2); and

6 “(F) enter into an agreement with the se-
7 lected entity accrediting that third party to pro-
8 tect any proprietary information of a private
9 sector entity obtained under this section.

10 “(5) MONITORING.—

11 “(A) IN GENERAL.—The Secretary and
12 any selected entity shall regularly monitor and
13 inspect the operations of any third party con-
14 ducting certifications under this section to en-
15 sure that third party is complying with the pro-
16 cedures and requirements established under
17 paragraph (2) and all other applicable require-
18 ments.

19 “(B) REVOCATION.—If the Secretary or
20 any selected entity determines that a third
21 party is not meeting the procedures or require-
22 ments established under paragraph (2), the ap-
23 propriate selected entity shall—

1 “(i) revoke the accreditation of that
2 third party to conduct certifications under
3 this section; and

4 “(ii) review any certification con-
5 ducted by that third party, as necessary
6 and appropriate.

7 “(d) ANNUAL REVIEW.—

8 “(1) IN GENERAL.—The Secretary, in consulta-
9 tion with the American National Standards Institute
10 and representatives of appropriate voluntary con-
11 sensus standards development organizations and
12 each private sector advisory council created under
13 section 102(f)(4), shall annually review the voluntary
14 accreditation and certification program established
15 under this section to ensure the effectiveness of such
16 program and make improvements and adjustments
17 to the program as necessary and appropriate.

18 “(2) REVIEW OF STANDARDS.—Each review
19 under paragraph (1) shall include an assessment of
20 the voluntary national preparedness standards used
21 in the program under this section.

22 “(e) VOLUNTARY PARTICIPATION.—Certification
23 under this section shall be voluntary for any private sector
24 entity.

1 “(f) PUBLIC LISTING.—The Secretary shall maintain
2 and make public a listing of any private sector entity cer-
3 tified as being in compliance with the program established
4 under this section, if that private sector entity consents
5 to such listing.

6 “(g) DEFINITION.—In this section, the term ‘selected
7 entity’ means any entity entering an agreement with the
8 Secretary under subsection (c)(1)(A).”.

9 (b) TECHNICAL AND CONFORMING AMENDMENT.—
10 The table of contents in section 1(b) of the Homeland Se-
11 curity Act of 2002 (6 U.S.C. 101 et seq.) is amended by
12 inserting after the item relating to section 521 the fol-
13 lowing:

“Sec. 522. Voluntary national preparedness standards compliance; accreditation
and certification program for the private sector.”.

14 **SEC. 704. SENSE OF CONGRESS REGARDING VOLUNTARY**
15 **NATIONAL PREPAREDNESS STANDARDS COM-**
16 **PLIANCE.**

17 It is the sense of Congress that insurance and credit-
18 rating industries should consider compliance with vol-
19 untary national preparedness standards in assessing in-
20 surability and credit worthiness.

1 **SEC. 705. SENSE OF CONGRESS REGARDING PROMOTING**
2 **AN INTERNATIONAL STANDARD FOR PRIVATE**
3 **SECTOR PREPAREDNESS.**

4 It is the sense of Congress that the Secretary or any
5 entity designated under subsection (c)(1) should promote,
6 where appropriate, efforts to develop a consistent inter-
7 national standard for private sector preparedness.

8 **SEC. 706. REPORT TO CONGRESS.**

9 Not later than 180 days after the date of enactment
10 of this Act, the Secretary shall submit to the Committee
11 on Homeland Security and Governmental Affairs of the
12 Senate and the Committee on Homeland Security of the
13 House of Representatives a report detailing—

14 (1) any action taken to implement this title or
15 an amendment made by this title; and

16 (2) the status, as of the date of that report, of
17 the implementation of this title and the amendments
18 made by this title.

19 **SEC. 707. RULE OF CONSTRUCTION.**

20 Nothing in this title may be construed to supercede
21 any preparedness or business continuity standards or re-
22 quirements established under any other provision of Fed-
23 eral law.

1 **TITLE VIII—TRANSPORTATION**
2 **SECURITY PLANNING AND IN-**
3 **FORMATION SHARING**

4 **SEC. 801. TRANSPORTATION SECURITY STRATEGIC PLAN-**
5 **NING.**

6 (a) IN GENERAL.—Section 114(t)(1)(B) of title 49,
7 United States Code, is amended to read as follows:

8 “(B) transportation modal and intermodal
9 security plans addressing risks, threats, and
10 vulnerabilities for aviation, bridge, tunnel, com-
11 muter rail and ferry, highway, maritime, pipe-
12 line, rail, mass transit, over-the-road bus, and
13 other public transportation infrastructure as-
14 sets.”.

15 (b) CONTENTS OF THE NATIONAL STRATEGY FOR
16 TRANSPORTATION SECURITY.—Section 114(t)(3) of such
17 title is amended—

18 (1) in subparagraph (B), by inserting “, based
19 on vulnerability assessments conducted by the Sec-
20 retary of Homeland Security,” after “risk based pri-
21 orities”;

22 (2) in subparagraph (D)—

23 (A) by striking “and local” and inserting
24 “, local, and tribal”; and

1 (B) by striking “private sector cooperation
2 and participation” and inserting “cooperation
3 and participation by private sector entities and
4 nonprofit employee labor organizations”;

5 (3) in subparagraph (E)—

6 (A) by striking “response” and inserting
7 “prevention, response,”; and

8 (B) by inserting “and threatened and exe-
9 cuted acts of terrorism outside the United
10 States to the extent such acts affect United
11 States transportation systems” before the pe-
12 riod at the end;

13 (4) in subparagraph (F), by adding at the end
14 the following: “Transportation security research and
15 development projects initiated by the Secretary of
16 Homeland Security shall be based on such
17 prioritization.”; and

18 (5) by adding at the end the following:

19 “(G) Short- and long-term budget rec-
20 ommendations for Federal transportation secu-
21 rity programs, which reflect the priorities of the
22 National Strategy for Transportation Security.

23 “(H) Methods for linking the individual
24 transportation modal security plans and the
25 programs contained therein, and a plan for ad-

1 dressing the security needs of intermodal trans-
2 portation hubs.

“(I) Transportation security modal and intermodal plans, including operational recovery plans to expedite, to the maximum extent practicable, the return of an adversely affected transportation system to its normal performance level preceding a major terrorist attack on that system or another catastrophe. These plans shall be coordinated with the resumption of trade protocols required under section 202 of the SAFE Port Act (6 U.S.C. 942).”.

13 (c) PERIODIC PROGRESS REPORTS.—Section
14 114(t)(4) of such title is amended—

15 (1) in subparagraph (C)—

(A) in clause (i), by inserting “, including the transportation modal security plans” before the period at the end; and

19 (B) by amending clause (ii) to read as fol-
20 lows:

21 “(ii) CONTENT.—Each progress re-
22 port submitted under this subparagraph
23 shall include the following:

24 “(I) Recommendations for im-
25 proving and implementing the Na-

1 tional Strategy for Transportation Se-
2 curity and the transportation modal
3 and intermodal security plans that the
4 Secretary, in consultation with the
5 Secretary of Transportation, considers
6 appropriate.

7 “(II) An accounting of all grants
8 for transportation security, including
9 grants for research and development,
10 distributed by the Secretary of Home-
11 land Security in the most recently
12 concluded fiscal year and a descrip-
13 tion of how such grants accomplished
14 the goals of the National Strategy for
15 Transportation Security.

16 “(III) An accounting of all—
17 “(aa) funds requested in the
18 President’s budget submitted
19 pursuant to section 1105 of title
20 31 for the most recently con-
21 cluded fiscal year for transpor-
22 tation security, by mode; and
23 “(bb) personnel working on
24 transportation security issues, in-

1 including the number of contrac-
2 tors.

3 “(iii) WRITTEN EXPLANATION OF
4 TRANSPORTATION SECURITY ACTIVITIES
5 NOT DELINEATED IN THE NATIONAL
6 STRATEGY FOR TRANSPORTATION SECU-
7 RITY.—At the end of each year, the Sec-
8 retary shall submit to the appropriate con-
9 gressional committees a written expla-
10 nation of any activity inconsistent with, or
11 not clearly delineated in, the National
12 Strategy for Transportation Security, in-
13 cluding the amount of funds to be ex-
14 pended for the activity.”; and

15 (2) in subparagraph (E), by striking “Select”.

16 (d) PRIORITY STATUS.—Section 114(t)(5)(B) of such
17 title is amended—

18 (1) in clause (iii), by striking “and” at the end;

19 (2) by redesignating clause (iv) as clause (v);

20 and

21 (3) by inserting after clause (iii) the following:

22 “(iv) the transportation sector specific
23 plan required under Homeland Security
24 Presidential Directive-7; and”.

1 (e) COORDINATION AND PLAN DISTRIBUTION.—Sec-
2 tion 114(t) of such title is amended by adding at the end
3 the following:

4 “(6) COORDINATION.—In carrying out the re-
5 sponsibilities under this section, the Secretary of
6 Homeland Security, in consultation with the Sec-
7 retary of Transportation, shall consult with Federal,
8 State, and local agencies, tribal governments, private
9 sector entities (including nonprofit employee labor
10 organizations), institutions of higher learning, and
11 other appropriate entities.

12 “(7) PLAN DISTRIBUTION.—The Secretary of
13 Homeland Security shall provide an unclassified
14 version of the National Strategy for Transportation
15 Security, including its component transportation
16 modal security plans, to Federal, State, regional,
17 local and tribal authorities, transportation system
18 owners or operators, private sector stakeholders (in-
19 cluding non-profit employee labor organizations), in-
20 stitutions of higher learning, and other appropriate
21 entities.”.

22 **SEC. 802. TRANSPORTATION SECURITY INFORMATION**
23 **SHARING.**

24 Section 114 of title 49, United States Code, is
25 amended by adding at the end the following:

1 “(u) TRANSPORTATION SECURITY INFORMATION
2 SHARING PLAN.—

3 “(1) ESTABLISHMENT OF PLAN.—The Sec-
4 retary of Homeland Security, in consultation with
5 the program manager of the information sharing en-
6 vironment established under section 1016 of the In-
7 telligence Reform and Terrorism Prevention Act of
8 2004 (6 U.S.C. 485), the Secretary of Transpor-
9 tation, and public and private stakeholders, shall es-
10 tablish a Transportation Security Information Shar-
11 ing Plan.

12 “(2) PURPOSE OF PLAN.—The Plan shall pro-
13 mote sharing of transportation security information
14 between the Department of Homeland Security and
15 public and private stakeholders.

16 “(3) CONTENT OF PLAN.—The Plan shall in-
17 clude—

18 “(A) a description of how intelligence ana-
19 lyysts within the Department of Homeland Secu-
20 rity will coordinate their activities within the
21 Department and with other Federal, State, and
22 local agencies, and tribal governments;

23 “(B) an assignment of a single point of
24 contact for and within the Department of
25 Homeland Security for its sharing of transpor-

1 tation security information with public and pri-
2 vate stakeholders;

3 “(C) a demonstration of input on the de-
4 velopment of the Plan from private and public
5 stakeholders and the program manager of the
6 information sharing environment established
7 under section 1016 of the Intelligence Reform
8 and Terrorism Prevention Act of 2004 (6
9 U.S.C. 485);

10 “(D) a reasonable deadline by which the
11 Plan will be implemented; and

12 “(E) a description of resource needs for
13 fulfilling the Plan.

14 “(4) COORDINATION WITH THE INFORMATION
15 SHARING ENVIRONMENT.—The Plan shall be—

16 “(A) implemented in coordination with the
17 program manager for the information sharing
18 environment established under section 1016 of
19 the Intelligence Reform and Terrorism Preven-
20 tion Act of 2004 (6 U.S.C. 485); and

21 “(B) consistent with and support the es-
22 tablishment of that environment, and any poli-
23 cies, guidelines, procedures, instructions, or
24 standards established by the President or the

1 program manager for the implementation and
2 management of that environment.

3 “(5) REPORTS TO CONGRESS.—

4 “(A) IN GENERAL.—Not later than 180
5 days after the date of enactment of this sub-
6 section, the Secretary shall submit to the appro-
7 priate congressional committees a report con-
8 taining the Plan.

9 “(B) ANNUAL REPORT.—Not later than 1
10 year after the date of enactment of this sub-
11 section, the Secretary shall submit to the appro-
12 priate congressional committees an annual re-
13 port on updates to and the implementation of
14 the Plan.

15 “(6) SURVEY.—

16 “(A) IN GENERAL.—The Secretary shall
17 conduct an annual survey of the satisfaction of
18 each of the recipients of transportation intel-
19 ligence reports disseminated under the Plan,
20 and include the results of the survey as part of
21 the annual report to be submitted under para-
22 graph (5)(B).

23 “(B) INFORMATION SOUGHT.—The annual
24 survey conducted under subparagraph (A) shall
25 seek information about the quality, speed, regu-

1 larity, and classification of the transportation
2 security information products disseminated
3 from the Department of Homeland Security to
4 public and private stakeholders.

5 “(7) SECURITY CLEARANCES.—The Secretary,
6 to the greatest extent practicable, shall facilitate the
7 security clearances needed for public and private
8 stakeholders to receive and obtain access to classi-
9 fied information as appropriate.

10 “(8) CLASSIFICATION OF MATERIAL.—The Sec-
11 retary, to the greatest extent practicable, shall pro-
12 vide public and private stakeholders with specific
13 and actionable information in an unclassified format.

14 “(9) DEFINITIONS.—In this subsection:

15 “(A) APPROPRIATE CONGRESSIONAL COM-
16 MITTEES.—The term ‘appropriate congressional
17 committees’ has the meaning given that term in
18 subsection (t).

19 “(B) PLAN.—The term ‘Plan’ means the
20 Transportation Security Information Sharing
21 Plan established under paragraph (1).

22 “(C) PUBLIC AND PRIVATE STAKE-
23 HOLDERS.—The term ‘public and private stake-
24 holders’ means Federal, State, and local agen-
25 cies, tribal governments, and appropriate pri-

1 vate entities, including nonprofit employee labor
2 organizations.

3 “(D) SECRETARY.—The term ‘Secretary’
4 means the Secretary of Homeland Security.

5 “(E) TRANSPORTATION SECURITY INFOR-
6 MATION.—The term ‘transportation security in-
7 formation’ means information relating to the
8 threats to and vulnerabilities and consequences
9 of transportation modes, including aviation,
10 bridge and tunnel, mass transit, passenger and
11 freight rail, ferry, highway, maritime, pipeline,
12 and over-the-road bus transportation.”.

13 **TITLE IX—INCIDENT COMMAND** 14 **SYSTEM**

15 **SEC. 901. PREIDENTIFYING AND EVALUATING MULTIJURIS-**
16 **DICTIONAL FACILITIES TO STRENGTHEN IN-**
17 **CIDENT COMMAND; PRIVATE SECTOR PRE-**
18 **PAREDNESS.**

19 Section 507(c)(2) of the Homeland Security Act of
20 2002 (6 U.S.C. 317(c)(2)) is amended—

21 (1) in subparagraph (H), by striking “and” at
22 the end;

23 (2) by redesignating subparagraph (I) as sub-
24 paragraph (K); and

1 (3) by inserting after subparagraph (H) the fol-
2 lowing:

3 “(I) coordinating with the private sector to
4 help ensure private sector preparedness for nat-
5 ural disasters, acts of terrorism, or other man-
6 made disasters;

7 “(J) assisting State, local, or tribal govern-
8 ments, where appropriate, to preidentify and
9 evaluate suitable sites where a multijuris-
10 dictional incident command system can be
11 quickly established and operated from, if the
12 need for such a system arises; and”.

13 **SEC. 902. CREDENTIALING AND TYPING TO STRENGTHEN**
14 **INCIDENT COMMAND.**

15 (a) IN GENERAL.—Title V of the Homeland Security
16 Act of 2002 (6 U.S.C. 331 et seq.) is amended—

17 (1) by striking section 510 and inserting the
18 following:

19 **“SEC. 510. CREDENTIALING AND TYPING.**

20 “(a) CREDENTIALING.—

21 “(1) DEFINITIONS.—In this subsection—

22 “(A) the term ‘credential’ means to provide
23 documentation that can authenticate and verify
24 the qualifications and identity of managers of
25 incidents, emergency response providers, and

1 other appropriate personnel, including by ensur-
2 ing that such personnel possess a minimum
3 common level of training, experience, physical
4 and medical fitness, and capability appropriate
5 for their position;

6 “(B) the term ‘credentialing’ means evalu-
7 ating an individual’s qualifications for a specific
8 position under guidelines created under this
9 subsection and assigning such individual a qual-
10 ification under the standards developed under
11 this subsection; and

12 “(C) the term ‘credentialed’ means an indi-
13 vidual has been evaluated for a specific position
14 under the guidelines created under this sub-
15 section.

16 “(2) REQUIREMENTS.—

17 “(A) IN GENERAL.—The Administrator
18 shall enter into a memorandum of under-
19 standing with the administrators of the Emer-
20 gency Management Assistance Compact, State,
21 local, and tribal governments, emergency re-
22 sponse providers, and the organizations that
23 represent such providers, to collaborate on es-
24 tablishing nationwide standards for
25 credentialing all personnel who are likely to re-

1 spond to a natural disaster, act of terrorism, or
2 other man-made disaster.

3 “(B) CONTENTS.—The standards devel-
4 oped under subparagraph (A) shall—

5 “(i) include the minimum professional
6 qualifications, certifications, training, and
7 education requirements for specific emer-
8 gency response functional positions that
9 are applicable to Federal, State, local, and
10 tribal government;

11 “(ii) be compatible with the National
12 Incident Management System; and

13 “(iii) be consistent with standards for
14 advance registration for health professions
15 volunteers under section 319I of the Public
16 Health Services Act (42 U.S.C. 247d–7b).

17 “(C) TIMEFRAME.—The Administrator
18 shall develop standards under subparagraph (A)
19 not later than 6 months after the date of enact-
20 ment of the Improving America’s Security Act
21 of 2007.

22 “(3) CREDENTIALING OF DEPARTMENT PER-
23 SONNEL.—

24 “(A) IN GENERAL.—Not later than 1 year
25 after the date of enactment of the Improving

1 America's Security Act of 2007, the Secretary
2 and the Administrator shall ensure that all per-
3 sonnel of the Department (including temporary
4 personnel and individuals in the Surge Capacity
5 Force established under section 624 of the
6 Post-Katrina Emergency Management Reform
7 Act of 2006 (6 U.S.C. 711)) who are likely to
8 respond to a natural disaster, act of terrorism,
9 or other man-made disaster are credentialed.

10 “(B) STRATEGIC HUMAN CAPITAL PLAN.—
11 Not later than 90 days after completion of the
12 credentialing under subparagraph (A), the Ad-
13 ministrator shall evaluate whether the work-
14 force of the Agency complies with the strategic
15 human capital plan of the Agency developed
16 under section 10102 of title 5, United States
17 Code, and is sufficient to respond to a cata-
18 strophic incident.

19 “(4) INTEGRATION WITH NATIONAL RESPONSE
20 PLAN.—

21 “(A) DISTRIBUTION OF STANDARDS.—Not
22 later than 6 months after the date of enactment
23 of the Improving America's Security Act of
24 2007, the Administrator shall provide the
25 standards developed under paragraph (2) to all

1 Federal agencies that have responsibilities
2 under the National Response Plan.

3 “(B) CREDENTIALING OF AGENCIES.—Not
4 later than 6 months after the date on which the
5 standards are provided under subparagraph
6 (A), each agency described in subparagraph (A)
7 shall—

8 “(i) ensure that all employees or vol-
9 unteers of that agency who are likely to re-
10 spond to a natural disaster, act of ter-
11 rorism, or other man-made disaster are
12 credentialed; and

13 “(ii) submit to the Secretary the name
14 of each credentialed employee or volunteer
15 of such agency.

16 “(C) LEADERSHIP.—The Administrator
17 shall provide leadership, guidance, and technical
18 assistance to an agency described in subpara-
19 graph (A) to facilitate the credentialing process
20 of that agency.

21 “(5) DOCUMENTATION AND DATABASE SYS-
22 TEM.—

23 “(A) IN GENERAL.—Not later than 1 year
24 after the date of enactment of the Improving
25 America’s Security Act of 2007, the Adminis-

1 trator shall establish and maintain a docu-
2 mentation and database system of Federal
3 emergency response providers and all other
4 Federal personnel credentialed to respond to a
5 natural disaster, act of terrorism, or other man-
6 made disaster.

7 “(B) ACCESSIBILITY.—The documentation
8 and database system established under subpara-
9 graph (1) shall be accessible to the Federal co-
10 ordinating officer and other appropriate offi-
11 cials preparing for or responding to a natural
12 disaster, act of terrorism, or other man-made
13 disaster.

14 “(C) CONSIDERATIONS.—The Adminis-
15 trator shall consider whether the credentialing
16 system can be used to regulate access to areas
17 affected by a natural disaster, act of terrorism,
18 or other man-made disaster.

19 “(6) GUIDANCE TO STATE AND LOCAL GOVERN-
20 MENTS.—Not later than 6 months after the date of
21 enactment of the Improving America’s Security Act
22 of 2007, the Administrator shall—

23 “(A) in collaboration with the administra-
24 tors of the Emergency Management Assistance
25 Compact, State, local, and tribal governments,

1 emergency response providers, and the organi-
2 zations that represent such providers, provide
3 detailed written guidance, assistance, and ex-
4 pertise to State, local, and tribal governments
5 to facilitate the credentialing of State, local,
6 and tribal emergency response providers com-
7 monly or likely to be used in responding to a
8 natural disaster, act of terrorism, or other man-
9 made disaster; and

10 “(B) in coordination with the administra-
11 tors of the Emergency Management Assistance
12 Compact, State, local, and tribal governments,
13 emergency response providers (and the organi-
14 zations that represent such providers), and ap-
15 propriate national professional organizations,
16 assist State, local, and tribal governments with
17 credentialing the personnel of the State, local,
18 or tribal government under the guidance pro-
19 vided under subparagraph (A).

20 “(7) REPORT.—Not later than 6 months after
21 the date of enactment of the Improving America’s
22 Security Act of 2007, and annually thereafter, the
23 Administrator shall submit to the Committee on
24 Homeland Security and Governmental Affairs of the
25 Senate and the Committee on Homeland Security of

1 the House of Representatives a report describing the
2 implementation of this subsection, including the
3 number and level of qualification of Federal per-
4 sonnel trained and ready to respond to a natural dis-
5 aster, act of terrorism, or other man-made disaster.

6 “(b) TYPING OF RESOURCES.—

7 “(1) DEFINITIONS.—In this subsection—

8 “(A) the term ‘typed’ means an asset or
9 resource that has been evaluated for a specific
10 function under the guidelines created under this
11 section; and

12 “(B) the term ‘typing’ means to define in
13 detail the minimum capabilities of an asset or
14 resource.

15 “(2) REQUIREMENTS.—

16 “(A) IN GENERAL.—The Administrator
17 shall enter into a memorandum of under-
18 standing with the administrators of the Emer-
19 gency Management Assistance Compact, State,
20 local, and tribal governments, emergency re-
21 sponse providers, and organizations that rep-
22 resent such providers, to collaborate on estab-
23 lishing nationwide standards for typing of re-
24 sources commonly or likely to be used in re-

1 sponding to a natural disaster, act of terrorism,
2 or other man-made disaster.

3 “(B) CONTENTS.—The standards devel-
4 oped under subparagraph (A) shall—

5 “(i) be applicable to Federal, State,
6 local, and tribal government; and

7 “(ii) be compatible with the National
8 Incident Management System.

9 “(3) TYPING OF DEPARTMENT RESOURCES AND
10 ASSETS.—Not later than 1 year after the date of en-
11 actment of the Improving America’s Security Act of
12 2007, the Secretary shall ensure that all resources
13 and assets of the Department that are commonly or
14 likely to be used to respond to a natural disaster, act
15 of terrorism, or other man-made disaster are typed.

16 “(4) INTEGRATION WITH NATIONAL RESPONSE
17 PLAN.—

18 “(A) DISTRIBUTION OF STANDARDS.—Not
19 later than 6 months after the date of enactment
20 of the Improving America’s Security Act of
21 2007, the Administrator shall provide the
22 standards developed under paragraph (2) to all
23 Federal agencies that have responsibilities
24 under the National Response Plan.

1 “(B) TYPING OF AGENCIES, ASSETS, AND
2 RESOURCES.—Not later than 6 months after
3 the date on which the standards are provided
4 under subparagraph (A), each agency described
5 in subparagraph (A) shall—

6 “(i) ensure that all resources and as-
7 sets (including teams, equipment, and
8 other assets) of that agency that are com-
9 monly or likely to be used to respond to a
10 natural disaster, act of terrorism, or other
11 man-made disaster are typed; and

12 “(ii) submit to the Secretary a list of
13 all types resources and assets.

14 “(C) LEADERSHIP.—The Administrator
15 shall provide leadership, guidance, and technical
16 assistance to an agency described in subpara-
17 graph (A) to facilitate the typing process of
18 that agency.

19 “(5) DOCUMENTATION AND DATABASE SYS-
20 TEM.—

21 “(A) IN GENERAL.—Not later than 1 year
22 after the date of enactment of the Improving
23 America’s Security Act of 2007, the Adminis-
24 trator shall establish and maintain a docu-
25 mentation and database system of Federal re-

1 sources and assets commonly or likely to be
2 used to respond to a natural disaster, act of
3 terrorism, or other man-made disaster.

4 “(B) ACCESSIBILITY.—The documentation
5 and database system established under subpara-
6 graph (A) shall be accessible to the Federal co-
7 ordinating officer and other appropriate offi-
8 cials preparing for or responding to a natural
9 disaster, act of terrorism, or other man-made
10 disaster.

11 “(6) GUIDANCE TO STATE AND LOCAL GOVERN-
12 MENTS.—Not later than 6 months after the date of
13 enactment of the Improving America’s Security Act
14 of 2007, the Administrator, in collaboration with the
15 administrators of the Emergency Management As-
16 sistance Compact, State, local, and tribal govern-
17 ments, emergency response providers, and the orga-
18 nizations that represent such providers, shall—

19 “(A) provide detailed written guidance, as-
20 sistance, and expertise to State, local, and trib-
21 al governments to facilitate the typing of the re-
22 sources and assets of State, local, and tribal
23 governments likely to be used in responding to
24 a natural disaster, act of terrorism, or other
25 man-made disaster; and

1 “(B) assist State, local, and tribal govern-
2 ments with typing resources and assets of
3 State, local, or tribal governments under the
4 guidance provided under subparagraph (A).

5 “(7) REPORT.—Not later than 6 months after
6 the date of enactment of the Improving America’s
7 Security Act of 2007, and annually thereafter, the
8 Administrator shall submit to the Committee on
9 Homeland Security and Governmental Affairs of the
10 Senate and the Committee on Homeland Security of
11 the House of Representatives a report describing the
12 implementation of this subsection, including the
13 number and type of Federal resources and assets
14 ready to respond to a natural disaster, act of ter-
15 rorism, or other man-made disaster.

16 “(c) AUTHORIZATION OF APPROPRIATIONS.—There
17 are authorized to be appropriated such sums as necessary
18 to carry out this section.”; and

19 (2) by adding after section 522, as added by
20 section 703 of this Act, the following:

21 **“SEC. 523. PROVIDING SECURE ACCESS TO CRITICAL IN-**
22 **FRASTRUCTURE.**

23 “Not later than 6 months after the date of enactment
24 of the Improving America’s Security Act of 2007, and in
25 coordination with appropriate national professional orga-

1 nizations, Federal, State, local, and tribal government
2 agencies, and private-sector and nongovernmental entities,
3 the Administrator shall create model standards or guide-
4 lines that States may adopt in conjunction with critical
5 infrastructure owners and operators and their employees
6 to permit access to restricted areas in the event of a nat-
7 ural disaster, act of terrorism, or other man-made dis-
8 aster.”.

9 (b) TECHNICAL AND CONFORMING AMENDMENT.—
10 The table of contents in section 1(b) of the Homeland Se-
11 curity Act of 2002 (6 U.S.C. 101(b)) is amended by in-
12 serting after the item relating to section 522, as added
13 by section 703 of this Act, the following:

“Sec. 523. Providing Secure Access to Critical Infrastructure.”.

14 **TITLE X—CRITICAL** 15 **INFRASTRUCTURE PROTECTION**

16 **SEC. 1001. CRITICAL INFRASTRUCTURE PROTECTION.**

17 (a) CRITICAL INFRASTRUCTURE LIST.—Not later
18 than 90 days after the date of enactment of this Act, the
19 Secretary shall establish a risk-based prioritized list of
20 critical infrastructure and key resources that—

21 (1) includes assets or systems that, if success-
22 fully destroyed or disrupted through a terrorist at-
23 tack or natural catastrophe, would cause cata-
24 strophic national or regional impacts, including—

25 (A) significant loss of life;

1 (B) severe economic harm;

2 (C) mass evacuations; or

3 (D) loss of a city, region, or sector of the
4 economy as a result of contamination, destruc-
5 tion, or disruption of vital public services; and

6 (2) reflects a cross-sector analysis of critical in-
7 frastructure to determine priorities for prevention,
8 protection, recovery, and restoration.

9 (b) SECTOR LISTS.—The Secretary may establish ad-
10 ditional critical infrastructure and key resources priority
11 lists by sector, including at a minimum the sectors named
12 in Homeland Security Presidential Directive–7 as in effect
13 on January 1, 2006.

14 (c) MAINTENANCE.—Each list created under this sec-
15 tion shall be reviewed and updated on an ongoing basis,
16 but at least annually.

17 (d) ANNUAL REPORT.—

18 (1) GENERALLY.—Not later than 120 days
19 after the date of enactment of this Act, and annually
20 thereafter, the Secretary shall submit to the Com-
21 mittee on Homeland Security and Governmental Af-
22 fairs of the Senate and the Committee on Homeland
23 Security of the House of Representatives a report
24 summarizing—

1 (A) the criteria used to develop each list
2 created under this section;

3 (B) the methodology used to solicit and
4 verify submissions for each list;

5 (C) the name, location, and sector classi-
6 fication of assets in each list created under this
7 section;

8 (D) a description of any additional lists or
9 databases the Department has developed to
10 prioritize critical infrastructure on the basis of
11 risk; and

12 (E) how each list developed under this sec-
13 tion will be used by the Secretary in program
14 activities, including grant making.

15 (2) CLASSIFIED INFORMATION.—The Secretary
16 shall submit with each report under this subsection
17 a classified annex containing information required to
18 be submitted under this subsection that cannot be
19 made public.

20 **SEC. 1002. RISK ASSESSMENT AND REPORT.**

21 (a) RISK ASSESSMENT.—

22 (1) IN GENERAL.—The Secretary, pursuant to
23 the responsibilities under section 202 of the Home-
24 land Security Act (6 U.S.C. 122), for each fiscal
25 year beginning with fiscal year 2007, shall prepare

1 a risk assessment of the critical infrastructure and
2 key resources of the Nation which shall—

3 (A) be organized by sector, including the
4 critical infrastructure sectors named in Home-
5 land Security Presidential Directive–7, as in ef-
6 fect on January 1, 2006; and

7 (B) contain any actions or counter-
8 measures proposed, recommended, or directed
9 by the Secretary to address security concerns
10 covered in the assessment.

11 (2) RELIANCE ON OTHER ASSESSMENTS.—In
12 preparing the assessments and reports under this
13 section, the Department may rely on a vulnerability
14 assessment or risk assessment prepared by another
15 Federal agency, if the Department certifies in the
16 applicable report submitted under subsection (b)
17 that the Department—

18 (A) reviewed the methodology and analysis
19 of the assessment upon which the Department
20 relied; and

21 (B) determined that assessment is reliable.

22 (b) REPORT.—

23 (1) IN GENERAL.—Not later than 6 months
24 after the last day of fiscal year 2007 and for each
25 year thereafter, the Secretary shall submit to the

1 Committee on Homeland Security and Governmental
2 Affairs of the Senate and the Committee on Home-
3 land Security of the House of Representatives a re-
4 port containing a summary and review of the risk
5 assessments prepared by the Secretary under this
6 section for that fiscal year, which shall be organized
7 by sector and which shall include recommendations
8 of the Secretary for mitigating risks identified by
9 the assessments.

10 (2) CLASSIFIED ANNEX.—The report under this
11 subsection may contain a classified annex.

12 **TITLE XI—CONGRESSIONAL**
13 **OVERSIGHT OF INTELLIGENCE**

14 **SEC. 1101. AVAILABILITY TO PUBLIC OF CERTAIN INTEL-**
15 **LIGENCE FUNDING INFORMATION.**

16 (a) AMOUNTS REQUESTED EACH FISCAL YEAR.—
17 The President shall disclose to the public for each fiscal
18 year after fiscal year 2007 the aggregate amount of appro-
19 priations requested in the budget of the President for such
20 fiscal year for the National Intelligence Program.

21 (b) AMOUNTS AUTHORIZED AND APPROPRIATED
22 EACH FISCAL YEAR.—Congress shall disclose to the pub-
23 lic for each fiscal year after fiscal year 2007 the aggregate
24 amount of funds authorized to be appropriated, and the

1 aggregate amount of funds appropriated, by Congress for
2 such fiscal year for the National Intelligence Program.

3 (c) STUDY ON DISCLOSURE OF ADDITIONAL INFOR-
4 MATION.—

5 (1) IN GENERAL.—The Director of National In-
6 telligence shall conduct a study to assess the advis-
7 ability of disclosing to the public amounts as follows:

8 (A) The aggregate amount of appropria-
9 tions requested in the budget of the President
10 for each fiscal year for each element of the in-
11 telligence community.

12 (B) The aggregate amount of funds au-
13 thorized to be appropriated, and the aggregate
14 amount of funds appropriated, by Congress for
15 each fiscal year for each element of the intel-
16 ligence community.

17 (2) REQUIREMENTS.—The study required by
18 paragraph (1) shall—

19 (A) address whether or not the disclosure
20 to the public of the information referred to in
21 that paragraph would harm the national secu-
22 rity of the United States; and

23 (B) take into specific account concerns re-
24 lating to the disclosure of such information for
25 each element of the intelligence community.

1 (3) REPORT.—Not later than 180 days after
2 the date of enactment of this Act, the Director shall
3 submit to Congress a report on the study required
4 by paragraph (1).

5 (d) DEFINITIONS.—In this section—

6 (1) the term “element of the intelligence com-
7 munity” means an element of the intelligence com-
8 munity specified in or designated under section 3(4)
9 of the National Security Act of 1947 (50 U.S.C.
10 401a(4)); and

11 (2) the term “National Intelligence Program”
12 has the meaning given that term in section 3(6) of
13 the National Security Act of 1947 (50 U.S.C.
14 401a(6)).

15 **SEC. 1102. RESPONSE OF INTELLIGENCE COMMUNITY TO**
16 **REQUESTS FROM CONGRESS.**

17 (a) RESPONSE OF INTELLIGENCE COMMUNITY TO
18 REQUESTS FROM CONGRESS FOR INTELLIGENCE DOCU-
19 MENTS AND INFORMATION.—Title V of the National Secu-
20 rity Act of 1947 (50 U.S.C. 413 et seq.) is amended by
21 adding at the end the following new section:

22 “RESPONSE OF INTELLIGENCE COMMUNITY TO REQUESTS
23 FROM CONGRESS FOR INTELLIGENCE DOCUMENTS
24 AND INFORMATION

25 “SEC. 508. (a) REQUESTS OF COMMITTEES.—The
26 Director of the National Counterterrorism Center, the Di-

1 rector of a national intelligence center, or the head of any
2 department, agency, or element of the intelligence commu-
3 nity shall, not later than 15 days after receiving a request
4 for any intelligence assessment, report, estimate, legal
5 opinion, or other intelligence information from the Select
6 Committee on Intelligence of the Senate, the Permanent
7 Select Committee on Intelligence of the House of Rep-
8 resentatives, or any other committee of Congress with ju-
9 risdiction over the subject matter to which information in
10 such assessment, report, estimate, legal opinion, or other
11 information relates, make available to such committee
12 such assessment, report, estimate, legal opinion, or other
13 information, as the case may be.

14 “(b) REQUESTS OF CERTAIN MEMBERS.—(1) The
15 Director of the National Counterterrorism Center, the Di-
16 rector of a national intelligence center, or the head of any
17 department, agency, or element of the intelligence commu-
18 nity shall respond, in the time specified in subsection (a),
19 to a request described in that subsection from the Chair-
20 man or Vice Chairman of the Select Committee on Intel-
21 ligence of the Senate or the Chairman or Ranking Member
22 of the Permanent Select Committee on Intelligence of the
23 House of Representatives.

24 “(2) Upon making a request covered by paragraph
25 (1)—

1 “(A) the Chairman or Vice Chairman, as the
2 case may be, of the Select Committee on Intelligence
3 of the Senate shall notify the other of the Chairman
4 or Vice Chairman of such request; and

5 “(B) the Chairman or Ranking Member, as the
6 case may be, of the Permanent Select Committee on
7 Intelligence of the House of Representatives shall
8 notify the other of the Chairman or Ranking Mem-
9 ber of such request.

10 “(c) ASSERTION OF PRIVILEGE.—In response to a re-
11 quest covered by subsection (a) or (b), the Director of the
12 National Counterterrorism Center, the Director of a na-
13 tional intelligence center, or the head of any department,
14 agency, or element of the intelligence community shall pro-
15 vide the document or information covered by such request
16 unless the President certifies that such document or infor-
17 mation is not being provided because the President is as-
18 serting a privilege pursuant to the Constitution of the
19 United States.

20 “(d) INDEPENDENT TESTIMONY OF INTELLIGENCE
21 OFFICIALS.—No officer, department, agency, or element
22 within the Executive branch shall have any authority to
23 require the head of any department, agency, or element
24 of the intelligence community, or any designate of such
25 a head—

1 “(1) to receive permission to testify before Con-
2 gress; or

3 “(2) to submit testimony, legislative rec-
4 ommendations, or comments to any officer or agency
5 of the Executive branch for approval, comments, or
6 review prior to the submission of such recommenda-
7 tions, testimony, or comments to Congress if such
8 testimony, legislative recommendations, or comments
9 include a statement indicating that the views ex-
10 pressed therein are those of the head of the depart-
11 ment, agency, or element of the intelligence commu-
12 nity that is making the submission and do not nec-
13 essarily represent the views of the Administration.”.

14 (b) DISCLOSURES OF CERTAIN INFORMATION TO
15 CONGRESS.—Title V of the National Security Act of 1947
16 (50 U.S.C. 413 et seq.), as amended by subsection (a),
17 is amended by adding at the end the following new section:

18 “DISCLOSURES TO CONGRESS

19 “SEC. 509. (a) AUTHORITY TO DISCLOSE CERTAIN
20 INFORMATION.—An employee of a covered agency or an
21 employee of a contractor carrying out activities pursuant
22 to a contract with a covered agency may disclose covered
23 information to an authorized individual without first re-
24 porting such information to the appropriate Inspector
25 General.

1 “(b) AUTHORIZED INDIVIDUAL.—(1) In this section,
2 the term ‘authorized individual’ means—

3 “(A) a Member of the Senate or the House of
4 Representatives who is authorized to receive infor-
5 mation of the type disclosed; or

6 “(B) an employee of the Senate or the House
7 of Representatives who—

8 “(i) has an appropriate security clearance;
9 and

10 “(ii) is authorized to receive information of
11 the type disclosed.

12 “(2) An authorized individual described in para-
13 graph (1) to whom covered information is disclosed
14 under the authority in subsection (a) shall be pre-
15 sumed to have a need to know such covered informa-
16 tion.

17 “(c) COVERED AGENCY AND COVERED INFORMATION
18 DEFINED.—In this section:

19 “(1) The term ‘covered agency’ means—

20 “(A) any department, agency, or element
21 of the intelligence community;

22 “(B) a national intelligence center; and

23 “(C) any other Executive agency, or ele-
24 ment or unit thereof, determined by the Presi-
25 dent under section 2302(a)(2)(C)(ii) of title 5,

1 United States Code, to have as its principal
2 function the conduct of foreign intelligence or
3 counterintelligence activities.

4 “(2) The term ‘covered information’—

5 “(A) means information, including classi-
6 fied information, that an employee referred to
7 in subsection (a) reasonably believes provides
8 direct and specific evidence of a false or inac-
9 curate statement—

10 “(i) made to Congress; or

11 “(ii) contained in any intelligence as-
12 sessment, report, or estimate; and

13 “(B) does not include information the dis-
14 closure of which is prohibited by rule 6(e) of
15 the Federal Rules of Criminal Procedure.

16 “(d) CONSTRUCTION WITH OTHER REPORTING RE-
17 QUIREMENTS.—Nothing in this section may be construed
18 to modify, alter, or otherwise affect—

19 “(1) any reporting requirement relating to in-
20 telligence activities that arises under this Act or any
21 other provision of law; or

22 “(2) the right of any employee of the United
23 States to disclose information to Congress, in ac-
24 cordance with applicable law, information other than
25 covered information.”.

1 (c) CLERICAL AMENDMENT.—The table of contents
2 in the first section of that Act is amended by inserting
3 after the item relating to section 507 the following new
4 items:

“Sec. 508. Response of intelligence community to requests from Congress for
intelligence documents and information.

“Sec. 509. Disclosures to Congress.”.

5 **SEC. 1103. PUBLIC INTEREST DECLASSIFICATION BOARD.**

6 The Public Interest Declassification Act of 2000 (50
7 U.S.C. 435 note) is amended—

8 (1) in section 704(e)—

9 (A) by striking “If requested” and insert-
10 ing the following:

11 “(1) IN GENERAL.—If requested”; and

12 (B) by adding at the end the following:

13 “(2) AUTHORITY OF BOARD.—Upon receiving a
14 congressional request described in section 703(b)(5),
15 the Board may conduct the review and make the
16 recommendations described in that section, regard-
17 less of whether such a review is requested by the
18 President.

19 “(3) REPORTING.—Any recommendations sub-
20 mitted to the President by the Board under section
21 703(b)(5), shall be submitted to the chairman and
22 ranking member of the committee of Congress that
23 made the request relating to such recommenda-
24 tions.”; and

1 (2) in section 710(b), by striking “8 years after
2 the date of the enactment of this Act” and inserting
3 “on December 31, 2012”.

4 **TITLE XII—INTERNATIONAL CO-**
5 **OPERATION ON ANTITER-**
6 **RORISM TECHNOLOGIES**

7 **SEC. 1201. PROMOTING ANTITERRORISM CAPABILITIES**
8 **THROUGH INTERNATIONAL COOPERATION.**

9 (a) FINDINGS.—The Congress finds the following:

10 (1) The development and implementation of
11 technology is critical to combating terrorism and
12 other high consequence events and implementing a
13 comprehensive homeland security strategy.

14 (2) The United States and its allies in the glob-
15 al war on terrorism share a common interest in fa-
16 cilitating research, development, testing, and evalua-
17 tion of equipment, capabilities, technologies, and
18 services that will aid in detecting, preventing, re-
19 sponding to, recovering from, and mitigating against
20 acts of terrorism.

21 (3) Certain United States allies in the global
22 war on terrorism, including Israel, the United King-
23 dom, Canada, Australia, and Singapore have exten-
24 sive experience with, and technological expertise in,
25 homeland security.

1 (4) The United States and certain of its allies
2 in the global war on terrorism have a history of suc-
3 cessful collaboration in developing mutually bene-
4 ficial equipment, capabilities, technologies, and serv-
5 ices in the areas of defense, agriculture, and tele-
6 communications.

7 (5) The United States and its allies in the glob-
8 al war on terrorism will mutually benefit from the
9 sharing of technological expertise to combat domes-
10 tic and international terrorism.

11 (6) The establishment of an office to facilitate
12 and support cooperative endeavors between and
13 among government agencies, for-profit business enti-
14 ties, academic institutions, and nonprofit entities of
15 the United States and its allies will safeguard lives
16 and property worldwide against acts of terrorism
17 and other high consequence events.

18 (b) PROMOTING ANTITERRORISM THROUGH INTER-
19 NATIONAL COOPERATION ACT.—

20 (1) IN GENERAL.—The Homeland Security Act
21 of 2002 is amended by inserting after section 316,
22 as added by section 601 of this Act, the following:

23 **“SEC. 317. PROMOTING ANTITERRORISM THROUGH INTER-**
24 **NATIONAL COOPERATION PROGRAM.**

25 “(a) DEFINITIONS.—In this section:

1 “(1) DIRECTOR.—The term ‘Director’ means
2 the Director selected under subsection (b)(2).

3 “(2) INTERNATIONAL COOPERATIVE ACTIV-
4 ITY.—The term ‘international cooperative activity’
5 includes—

6 “(A) coordinated research projects, joint
7 research projects, or joint ventures;

8 “(B) joint studies or technical demonstra-
9 tions;

10 “(C) coordinated field exercises, scientific
11 seminars, conferences, symposia, and work-
12 shops;

13 “(D) training of scientists and engineers;

14 “(E) visits and exchanges of scientists, en-
15 gineers, or other appropriate personnel;

16 “(F) exchanges or sharing of scientific and
17 technological information; and

18 “(G) joint use of laboratory facilities and
19 equipment.

20 “(b) SCIENCE AND TECHNOLOGY HOMELAND SECU-
21 RITY INTERNATIONAL COOPERATIVE PROGRAMS OF-
22 FICE.—

23 “(1) ESTABLISHMENT.—The Under Secretary
24 shall establish the Science and Technology Home-

1 land Security International Cooperative Programs
2 Office.

3 “(2) DIRECTOR.—The Office shall be headed by
4 a Director, who—

5 “(A) shall be selected by and shall report
6 to the Under Secretary; and

7 “(B) may be an officer of the Department
8 serving in another position.

9 “(3) RESPONSIBILITIES.—

10 “(A) DEVELOPMENT OF MECHANISMS.—
11 The Director shall be responsible for devel-
12 oping, in coordination with the Department of
13 State and other Federal agencies, mechanisms
14 and legal frameworks to allow and to support
15 international cooperative activity in support of
16 homeland security research.

17 “(B) PRIORITIES.—The Director shall be
18 responsible for developing, in coordination with
19 the Directorate of Science and Technology, the
20 other components of the Department, and other
21 Federal agencies, strategic priorities for inter-
22 national cooperative activity.

23 “(C) ACTIVITIES.—The Director shall fa-
24 cilitate the planning, development, and imple-
25 mentation of international cooperative activity

1 to address the strategic priorities developed
2 under subparagraph (B) through mechanisms
3 the Under Secretary considers appropriate, in-
4 cluding grants, cooperative agreements, or con-
5 tracts to or with foreign public or private enti-
6 ties, governmental organizations, businesses,
7 federally funded research and development cen-
8 ters, and universities.

9 “(D) IDENTIFICATION OF PARTNERS.—
10 The Director shall facilitate the matching of
11 United States entities engaged in homeland se-
12 curity research with non-United States entities
13 engaged in homeland security research so that
14 they may partner in homeland security research
15 activities.

16 “(4) COORDINATION.—The Director shall en-
17 sure that the activities under this subsection are co-
18 ordinated with those of other relevant research agen-
19 cies or other interagency bodies, including the Tech-
20 nical Support Working Group, and may run projects
21 jointly with other agencies.

22 “(c) MATCHING FUNDING.—

23 “(1) IN GENERAL.—

24 “(A) EQUITABILITY.—The Director shall
25 ensure that funding and resources expended in

1 international cooperative activity will be equi-
2 tably matched by the foreign partner govern-
3 ment or other entity through direct funding,
4 funding of complementary activities, or through
5 the provision of staff, facilities, material, or
6 equipment.

7 “(B) GRANT MATCHING AND REPAY-
8 MENT.—

9 “(i) IN GENERAL.—The Secretary
10 may require a recipient of a grant under
11 this section—

12 “(I) to make a matching con-
13 tribution of not more than 50 percent
14 of the total cost of the proposed
15 project for which the grant is award-
16 ed; and

17 “(II) to repay to the Secretary
18 the amount of the grant (or a portion
19 thereof), interest on such amount at
20 an appropriate rate, and such charges
21 for administration of the grant as the
22 Secretary determines appropriate.

23 “(ii) MAXIMUM AMOUNT.—The Sec-
24 retary may not require that repayment
25 under clause (i)(II) be more than 150 per-

1 cent of the amount of the grant, adjusted
2 for inflation on the basis of the Consumer
3 Price Index.

4 “(2) FOREIGN PARTNERS.—Partners may in-
5 clude Israel, the United Kingdom, Canada, Aus-
6 tralia, Singapore, and other allies in the global war
7 on terrorism, as appropriate.

8 “(d) FUNDING.—Funding for all activities under this
9 section shall be paid from discretionary funds appro-
10 priated to the Department.

11 “(e) FOREIGN REIMBURSEMENTS.—If the Science
12 and Technology Homeland Security International Cooper-
13 ative Programs Office participates in an international co-
14 operative activity with a foreign partner on a cost-sharing
15 basis, any reimbursements or contributions received from
16 that foreign partner to meet the share of that foreign part-
17 ner of the project may be credited to appropriate appro-
18 priations accounts of the Directorate of Science and Tech-
19 nology.”.

20 (2) TECHNICAL AND CONFORMING AMEND-
21 MENT.—The table of contents in section 1(b) of the
22 Homeland Security Act of 2002 (6 U.S.C. 101 et
23 seq.) is amended by adding after the item relating
24 to section 316, as added by section 601 of this Act,
25 the following:

“Sec. 317. Promoting antiterrorism through international cooperation program.”.